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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO
UNITED STATES OF AMERICA,
Plaintiff,
vs. NO: CR-15-4268 JB
ANGEL DELEON, et al.,
Defendants.

Transcript of Motions Hearing before The
Honorable James O. Browning, United States District
Judge, Las Cruces, Dona Ana County, New Mexico,
commencing on March 13, 2018.

For the Plaintiff: Ms. Maria Armijo, Mr. Randy
Castellano, Mr. Matthew Beck

For the Trial 2 Defendants: Mr. Brock Benjamin;
Ms. Cori Harbour-Valdez; Mr. Patrick Burke; Mr. Jim
Castle; Mr. Robert Cooper; Mr. James Lahann; Mr. Joe
Shattuck; Mr. John Granberg; Mr. Edwardo Solis;
Mr. Billy Blackburn; Mr. Donovan Roberts; Ms. Lisa
Torraco; Ms. Angela Arellanes.

1 THE COURT: All right. Let's go on the
2 record. I think everybody has got an attorney now.
3 I appreciate you being here on time and ready to go.
4 I appreciate your assistance.

5 All right. Mr. Castle indicated on his
6 motion to sever that he was going to rest on the
7 papers, but other people joined that, so I want to
8 make sure all the defendants have had their day on
9 the motion to sever.

10 And Mr. Granberg, you spoke to Ms. Bevel
11 this morning, and so if you want to speak on the
12 motion, you're free to do so.

13 MR. GRANBERG: Thank you, Your Honor.

14 THE COURT: Mr. Granberg.

15 MR. GRANBERG: Your Honor, on behalf of
16 Christopher Chavez, we join Mr. Castle's motion for
17 severance, docket number 1743. And we would just
18 reargue similar grounds that were argued yesterday by
19 Ms. Torraco.

20 We'd argue that prejudice would attach to
21 Mr. Chavez by being tried with seven other
22 co-defendants. We would argue that the amount of
23 limiting instructions that counsel would have to make
24 during the course of the trial would be numerous,
25 considering the number of co-defendants being tried

1 with him; and furthermore, we'd argue that a
2 severance -- ideally, we would prefer Mr. Chavez be
3 tried by himself. But practically speaking, we would
4 argue that a severance on Counts 1 and 2 from the
5 rest of the group would comprise two trial groups of
6 five and five. So I know that the Court is
7 considering --

8 THE COURT: That would require me to try
9 some people twice.

10 MR. GRANBERG: Yes, Your Honor, it would
11 require just Gallegos and Edward Troup to be tried
12 twice, but I'm sure they don't mind. But I
13 understand the Court is considering a move to
14 Albuquerque. So if this severance for Mr. Chavez
15 plays any part in the decision-making process for
16 that move, we'd ask the Court to hold it in abeyance
17 until the Court makes a decision on Albuquerque or
18 Las Cruces.

19 THE COURT: All right. Thank you, Mr.
20 Granberg.

21 Any other defendants, whether you join it
22 or not, anybody else want to speak on this issue?

23 MR. BURKE: Your Honor, we had joined, and
24 we agree with Mr. Castle.

25 THE COURT: All right. Thank you, Mr.

1 Burke.

2 All right. Does the Government want to
3 speak on this issue? Mr. Beck.

4 MR. BECK: Your Honor, I'm fine to join Mr.
5 Castle in submitting on our response.

6 THE COURT: All right. Well, I certainly
7 won't preclude anybody from renewing a motion to
8 sever. I think the attorneys for the defendants made
9 motions to sever just about every day of the trial.
10 So you're welcome to renew it.

11 But at the present time, I'm fairly
12 comfortable with the breakdown that we've made. I'm
13 concerned about the numbers that we have here and the
14 logistics of the trial and where it's going to be,
15 and how you put everybody together, some of the
16 things we talked about yesterday.

17 At least as to how we're going to try the
18 defendants together, I still am comfortable. So I'll
19 deny the motion without prejudice to renewing it,
20 unless the circumstances change to a considerable
21 degree. All right.

22 The next motion I guess that we have up is
23 the -- I guess the topic that we have is the one that
24 we started yesterday with the severance, the James
25 motion. So tell me how y'all would like to proceed.

1 Let me start with you, Mr. Castellano, if
2 you want to tell me how the Government plans to
3 proceed.

4 MR. CASTELLANO: Yes, Your Honor. It
5 sounds like in spite of the table, defense counsel
6 wants a James hearing, so we're going to put Agent
7 Stemo on the stand and go through these one statement
8 at time. So if the Court has the table in front of
9 the Court, we'll put her on the stand and take the
10 statements.

11 THE COURT: All right. Is that how the
12 defendants want to proceed? Is that the way y'all
13 were hoping it would proceed?

14 MR. BENJAMIN: That was my understanding
15 how the agreement was reached in November, Your
16 Honor.

17 THE COURT: That's what you want to occur
18 now?

19 MR. BENJAMIN: Yes, Your Honor.

20 THE COURT: Everybody else in agreement?

21 All right. Ms. Stemo, if you'll return to
22 the witness stand. And I'll remind you that you're
23 still under oath.

1 NANCY STEMBO,
2 after having been previously duly sworn under
3 oath, was questioned, and continued testifying
4 as follows:

5 EXAMINATION
6 BY MR. CASTELLANO:

7 Q. Good morning, Agent Stemo.

8 A. Good morning.

9 Q. Do you have the table in front of you
10 that's prepared with the James statements?

11 A. I do.

12 THE COURT: Can I ask the defendants, on
13 the document, I now have had a chance to read the
14 document that was filed yesterday, but this is Joe
15 Gallegos' response to the United States' notice of
16 proposed James statements. Does this constitute a
17 document that reflects all the defendants' thinking,
18 or is this just your thinking? Or what is the import
19 of this? How far does it --

20 MR. BENJAMIN: That's mine, Your Honor.
21 And I can't speak for everybody, but counting the
22 documents that were filed on Sunday, I believe most
23 teams filed one. I know, for instance -- I know
24 Mr. Chavez filed one. I know Andrew Gallegos filed
25 one. I know Billy Garcia filed one, Your Honor, and

1 I've got a hand from Edward Troup. I don't remember
2 seeing one, but I know that they filed one, as well,
3 is what I'm being told, Your Honor. So I believe
4 just about everybody filed one.

5 THE COURT: Well, I hope I have
6 everybody's. I'll do an inventory here. I've got
7 everybody's. Okay. So I've got yours, Mr. Benjamin.

8 MR. SHATTUCK: Your Honor, on behalf of Mr.
9 Patterson, we did not file one, but we joined in all
10 the others.

11 THE COURT: All right. I've got
12 Mr. Roberts' and Ms. Torracco's which has been joined
13 by Mr. Benjamin. And all these were filed yesterday?
14 Because I'm looking at -- we had a lot of James
15 briefing back in October. We're not talking about
16 anything like that; we're talking about responses
17 specifically to the Government's newest document;
18 right?

19 MS. HARBOUR-VALDEZ: Your Honor, I believe
20 everyone's was filed on Sunday except for Edward
21 Troup. Ours was filed yesterday. It's document
22 1920.

23 MR. CASTLE: Actually, Your Honor, ours was
24 filed on March 9. We filed two. One was 1908, which
25 was a generalized brief filed on behalf all

1 defendants, remaining defendants; and then
2 Mr. Garcia's specific objections are in 1909. So
3 that was filed on March 9, Friday.

4 MS. ARELLANES: Angelina Arellanes, on
5 behalf of Shauna Gutierrez. I filed mine on Sunday.
6 It's 1914 document number.

7 THE COURT: Okay. Well, I'm not sure that
8 I have everybody's. So let me get a pad here and
9 write down the numbers, and then I'm going to have
10 Ms. Bevel or my law clerk print out the documents. I
11 got Mr. Andrew Gallegos, then I got Mr. Joe Gallegos.
12 But the other people, other than those two, give me
13 the numbers.

14 MS. HARBOUR-VALDEZ: Troup is 1920, Your
15 Honor.

16 MS. ARELLANES: Shauna Gutierrez was filed
17 as 1914.

18 MR. GRANBERG: Your Honor, Christopher
19 Chavez is 1916.

20 MR. CASTLE: Mr. Garcia's is 1909 and 1910.
21 Mr. Billy Garcia. I said 1908 earlier, Judge. That
22 was wrong.

23 THE COURT: So you filed two of them?

24 MR. CASTLE: Right. One is a general one
25 that's on behalf of all defendants. We were just the

1 filer. That's 1910. And then the specific one is
2 1909.

3 THE COURT: Okay. Anybody else got the two
4 Gallegoses? All right. So Mr. Hammond, Ms. Bevel,
5 if you'll print out 1920, 1914, 1916, 1909, and 1910.
6 Doesn't look like I have those.

7 THE CLERK: Okay.

8 THE COURT: All right. Mr. Castellano.
9 The reason I was doing this, I was looking at Mr.
10 Benjamin's, and he didn't seem to object to the first
11 12. He picked up with 13, and I didn't realize other
12 people had filed.

13 MR. CASTELLANO: Right. And given the
14 various objections, I plan on going through each of
15 the statements. If defense counsel says they don't
16 have an issue with it, we'll move to the next one.
17 But we'll take them one at a time beginning with
18 Number 1.

19 THE COURT: Okay.

20 DIRECT EXAMINATION

21 BY MR. CASTELLANO:

22 Q. Agent Stemo, looking at Statement Number 1
23 on the table, is that an accurate statement, that
24 Billy Garcia tasked Leonard Lujan with finding people
25 to murder Mr. Garza and Mr. Castillo?

1 A. Yes, it is.

2 MR. CASTLE: Objection, Your Honor. There
3 is no foundation that this witness would know whether
4 that's true or not.

5 THE COURT: Let's see what she knows.
6 They've got to put a witness on here that explains --
7 and if she can't do it, she'll let us know. But I've
8 got to let them make their presentation the way
9 they're doing it.

10 BY MR. CASTELLANO:

11 Q. Leonard Lujan is listed as the source of
12 that information. Are you aware of Mr. Lujan making
13 that statement?

14 A. Yes, I am.

15 Q. Indicating that Mr. Garcia is the one who
16 ordered the murders?

17 A. Yes.

18 Q. And was there an indication by Mr. Lujan
19 that these murders were supposed to happen
20 simultaneously?

21 A. Yes.

22 Q. And in terms of the background,
23 approximately how long before the murders happened on
24 March 26, 2001, did Billy Garcia find himself in the
25 same facility with Mr. Lujan to have this

1 conversation?

2 A. He was there approximately one to two weeks
3 before the murders happened.

4 Q. And so according to Leonard Lujan, was this
5 a personal interaction between the two?

6 A. Yes.

7 Q. Looking at Statement Number 2, was there
8 also an indication by Mr. Lujan that Mr. Garcia told
9 him that Mr. Castillo and Mr. Garza were to be taken
10 out by strangulation?

11 A. Yes.

12 Q. Looking at Statement Number 3, was there an
13 indication by Mr. Lujan that the murders were an
14 order by Billy Garcia?

15 A. Yes.

16 Q. Was there also an indication that anyone
17 who didn't follow that order would be killed?

18 A. Yes, I believe Mr. Garcia instructed Mr.
19 Lujan to select backup hit teams in case the two
20 original hit teams didn't carry out their orders.

21 Q. So in other words, in order to fulfill the
22 order that people would be killed for not following
23 through, there were supposed to be backup teams to
24 make sure that it happened?

25 A. Yes.

1 Q. Looking at Statement Number 4, there was an
2 indication by Leonard Lujan that Billy Garcia was
3 planning to kill everyone in the unit who had a green
4 light, starting with Mr. Castillo and Mr. Garza?

5 A. Yes.

6 Q. Were these all statements given to Mr.
7 Lujan by Mr. Garcia after he arrived at the facility?

8 A. Correct.

9 Q. Turning to Statement Number 5, there is an
10 indication on the table that the murders needed to be
11 done because the SNM Gang was losing status with
12 other gangs?

13 A. Yes.

14 Q. And along those lines with that statement,
15 was there an indication by Mr. Garcia that the SNM
16 needed to clean its own house?

17 A. Yes, there was.

18 Q. Is that the reason why the SNM was killing
19 its own gang members?

20 A. Yes.

21 Q. Statement Number 6, there is an indication
22 on the table, the sources being Mr. Lujan and
23 Mr. Eugene Martinez, that Leonard Lujan told them,
24 "I'm telling you right now where it's coming from and
25 everything," referring to Billy Garcia?

1 A. Yes.

2 Q. There was an indication both by Mr. Lujan
3 and Mr. Martinez that he passed that order on to
4 Eugene Martinez?

5 A. There was.

6 Q. In Statement Number 7, there is a statement
7 attributed to Leonard Lujan that Billy Garcia ordered
8 the murder due to Castillo cooperating with law
9 enforcement?

10 A. Yes.

11 Q. And on each of these statements, are these
12 statements leading up to the murder on March 26 of
13 2001?

14 A. Yes.

15 Q. Is there also an indication that Billy
16 Garcia ordered the Garza murder because he'd been a
17 former Los Carnales member?

18 A. Yes.

19 Q. And in the context of this case, have you
20 heard the term "jumping fences"?

21 A. I have.

22 Q. Would this be consistent with that phrase?

23 A. Yes.

24 Q. In Statement Number 9, there is a statement
25 attributed to Billy Garcia to Leonard Lujan

1 indicating, quote, "What the fuck is going on? I
2 sent word a long time ago to clean house."

3 Was there an indication by Mr. Lujan that
4 Mr. Garcia told him that?

5 A. Yes.

6 Q. What was the purpose of Mr. Garcia telling
7 Mr. Lujan that in the context of what Mr. Lujan said?

8 MR. CASTLE: Objection, speculation.

9 THE COURT: Well, I'll let y'all
10 cross-examine. But let's see what the Government --
11 what their theory is.

12 A. Mr. Garcia had sent word to Mr. Lujan via,
13 I believe it was, Ernest Guerrero that Mr. Lujan was
14 supposed to take the keys at Southern. That did not
15 get back to Mr. Lujan. Additionally, it was said
16 that the SNM was supposed to clean the house with the
17 previous message that also did not get to Mr. Lujan;
18 therefore, he didn't take any action.

19 BY MR. CASTELLANO:

20 Q. And then once Mr. Garcia arrived at the
21 facility, did he then make sure that Mr. Lujan took
22 action?

23 A. Yes.

24 Q. Turning to statement 10, the source is
25 attributed to Mr. Leroy Lucero indicating that he

1 received word from Billy Garcia that several hits
2 were supposed to happen. Garcia told him, meaning
3 Mr. Lucero, he didn't need help because Lucero was
4 getting out?

5 MR. BURKE: Your Honor, I have -- it's
6 really not an objection, but it's a clarification. I
7 think Leroy Lucero's lawyer filed a motion to quash,
8 and I think in that motion he said that he's not
9 testifying unless he gets immunity or something like
10 that. And so I'm wondering if -- since I think the
11 purpose of all this is to clarify what we're really
12 going to have at trial, whether that testimonial
13 issue should be discussed now, whether Leroy Lucero
14 will be --

15 THE COURT: Well, I don't think it should
16 be discussed now. I think the Government ought to
17 put out statements, tell us as fully as it wants to
18 what evidence it has to support. Then I think y'all
19 cross-examine. But I don't think we're into Bruton
20 issues yet or that.

21 MR. BURKE: All right.

22 THE COURT: I think we're trying to figure
23 out what statements are going to come in through the
24 co-conspirator portion that makes these statements
25 nonhearsay. If the Government is going to try to

1 squeeze it in through that, they're going to have to
2 prove it. This is their proof.

3 MR. BURKE: Thank you, Your Honor.

4 MR. CASTELLANO: I agree with the Court,
5 Your Honor. At this point the only question is
6 whether or not these statements are admissible.
7 Whether they come in at trial is a different story.

8 THE COURT: Well, even admissible under one
9 section of 801.

10 MR. CASTELLANO: Correct.

11 THE COURT: It's even more limited than
12 just whether they're admissible. They may be
13 inadmissible for some other reason.

14 MR. CASTELLANO: Agreed, Your Honor.

15 BY MR. CASTELLANO:

16 Q. Okay. So related to this statement, was
17 there an indication that Leroy Lucero received word
18 from Billy Garcia that several hits were supposed to
19 happen, but that Mr. Lucero didn't need to help
20 because he was getting out?

21 A. Correct.

22 Q. Was there an indication by Mr. Lucero that
23 he confirmed this information with Angel Munoz?

24 A. Yes. They actually spoke over the phone.

25 MR. CASTELLANO: Your Honor, I don't

1 remember if I added Angel Munoz to the co-conspirator
2 yesterday. If not, I would add his name to this
3 list.

4 MR. BLACKBURN: You did.

5 MR. CASTELLANO: Okay.

6 BY MR. CASTELLANO:

7 Q. Turning to statement 11 --

8 THE COURT: This is on Castillo?

9 MR. CASTELLANO: Yes. These are the
10 Castillo and Garza murders.

11 THE COURT: You had him as the first
12 nonindicted co-conspirator.

13 MR. CASTELLANO: As Angel Munoz?

14 THE COURT: Yes.

15 MR. CASTELLANO: Okay. Thank you.

16 BY MR. CASTELLANO:

17 Q. Statement 11, there is an indication here
18 in the table that Leroy Lucero confirmed the message
19 that several hits were supposed to happen with Angel
20 Munoz. Munoz said, "Something has to happen, carnal.
21 Billy is on his way."

22 A. Yes.

23 Q. And did you get that information from Leroy
24 Lucero?

25 A. Yes.

1 Q. And did he indicate that Angel Munoz
2 confirmed this information with him?

3 A. He did.

4 Q. Do you recall how this information was
5 confirmed?

6 A. It was over the telephone.

7 Q. What kind of call was it, as best as you
8 recall?

9 A. I believe it was a three-way call.

10 Q. Statement 12 refers to a statement where
11 Leonard Lujan met with Eugene Martinez and tasked him
12 with the murder of Garza by strangulation, and told
13 Martinez to pick people to help?

14 A. Yes.

15 Q. Did you have that information, the source,
16 as both Leonard Lujan and Eugene Martinez?

17 A. Yes, I do.

18 Q. Was there an indication that Martinez was
19 picked as one of the people because he was in the
20 same pod as Mr. Garza?

21 A. Yes.

22 Q. Statement 13 indicates that Leonard Lujan
23 met with Joe Gallegos, Angel DeLeon, and Criminal,
24 also known as Michael Jaramillo, and ordered Castillo
25 murdered by strangulation?

1 A. Yes.

2 Q. Was there an indication that Leonard Lujan
3 said that he, in fact, did these things?

4 A. Yes.

5 MR. BENJAMIN: Your Honor, and for the
6 Court's purposes, we filed written objections. I
7 don't have any new objections based upon the
8 testimony that's been proffered for that statement.
9 If the Court would consider that a running objection?

10 THE COURT: It's going to consider what?

11 MR. BENJAMIN: I'm just trying -- for the
12 Court's purposes, Your Honor, that Statement 13 is
13 the first statement that I filed a written objection
14 to. So at this point in time I would not object, but
15 I would ask that the Court consider my objections.

16 THE COURT: Y'all don't have to renew your
17 objections. You're going to get to cross-examine
18 her, and then we're going to have argument. So if
19 there's problems, you're going to get full
20 opportunity to tell me what's wrong with these
21 statements coming in to the co-conspirator. I've got
22 to come up with a better word than "exception," but
23 co-conspirator prong.

24 MR. BENJAMIN: Thank you, Your Honor.

25

1 BY MR. CASTELLANO:

2 Q. And Statement Number 13. Was there an
3 indication that Joe Gallegos, Angel DeLeon, and
4 Michael Jaramillo were in the same pod as Mr.
5 Castillo?

6 A. He actually picked them because he was
7 standing in front of the pod and they were together
8 and Mr. Lujan knew all three had green lights on
9 them.

10 Q. Statement Number 14 indicates that Billy
11 Garcia wanted knowledge of the plan kept to very few
12 individuals?

13 A. Yes.

14 Q. What do you remember about that statement?

15 A. He didn't want a lot of people to know,
16 probably because the more people that know, the more
17 likely that law enforcement will find out.

18 MR. CASTLE: Your Honor, can we have a
19 clarification? Is "probably" part of a statement
20 that Lujan made or the agent made?

21 THE COURT: Well, I'll let you go into that
22 on cross. I don't think it's probably proper to
23 object at this point. Let's let them put on their
24 case, and you can go into it on cross.

25

1 BY MR. CASTELLANO:

2 Q. Statement Number 15. There is an
3 indication that Billy Garcia congratulated Leonard
4 Lujan by telling him Amor. So did that happen on or
5 about March 26, 2001?

6 A. It did.

7 Q. Is that a statement attributable by Billy
8 Garcia made to Leonard Lujan?

9 A. Yes.

10 Q. Statement Number 16. There is an
11 indication that Frederico Munoz was part of a
12 committee that sanctioned a hit on Garza and
13 Castillo; Munoz wanted Garza killed for being Los
14 Carnales?

15 A. Yes.

16 Q. And has Frederico Munoz admitted this
17 information?

18 A. Yes, he has.

19 Q. And was there an indication that Frederico
20 Munoz also later confirmed what had happened after
21 the hits took place?

22 A. Yes.

23 Q. And was Mr. Munoz at a different
24 facility -- was he at PNM whenever he was on this
25 committee that ordered the hits?

1 A. He was.

2 Q. Statement Number 17 refers to the Freddie
3 Sanchez murder. There is an indication here that
4 Arturo Garcia placed a hit on Freddie Sanchez because
5 he was suspected of cooperating with law enforcement?

6 A. Yes.

7 Q. And Eric Duran is listed as the source?

8 A. Yes.

9 Q. How does -- according to Eric Duran, how
10 did he know this information?

11 A. Eric Duran was with Arturo Garcia when the
12 hit was put out.

13 Q. Statement Number 18 indicates that Ben
14 Clark passed around paperwork on Sanchez's
15 cooperation with police, stating, "Everyone who needs
16 to see it has seen it. Get rid of it."

17 So is there an indication that Ben Clark
18 said this?

19 A. Yes.

20 Q. And was the information provided by Ruben
21 Hernandez?

22 A. It was.

23 Q. And did this happen on or before June 17,
24 2007, the date of the murder?

25 A. It did.

1 Q. Statement 19 refers to Arturo Garcia
2 writing to Frankie Gonzalez that Brian and Raymond
3 Rascon were to take care of the next murder for SNM?

4 A. Yes.

5 Q. And Mr. Alonso is listed as the source?

6 A. Yes.

7 Q. What was the indication that Mr. Alonso was
8 aware of this information?

9 A. I believe Mr. Alonso saw the letter.

10 Q. And what is your understanding of where
11 Mr. Garcia was when the letter was sent?

12 A. PNM North unit.

13 Q. Statement 20 refers to Ben Clark putting
14 Javier Alonso in charge of making sure that Freddie
15 Sanchez was killed and told the Rascon brothers to
16 complete the hit. So is that a statement
17 attributable to Ben Clark?

18 A. Yes.

19 Q. And did Javier Alonso -- was he aware of
20 that statement?

21 A. He was.

22 Q. Statement 21 refers to word being sent from
23 the green pod that if Sanchez was not killed, others
24 in the blue pod would be killed?

25 A. Yes.

1 Q. So was there an indication that a message
2 was sent from one pod to the other indicating that
3 this hit should occur or others would be harmed?

4 A. Yes.

5 Q. And did Javier Alonso remember the person
6 who actually sent the message under the door?

7 A. No, he couldn't remember that.

8 Q. Did he recall whether Ernest Guerrero was
9 one of the people who sent the message to that
10 person?

11 A. Yes.

12 MR. CASTELLANO: Your Honor, I don't know
13 if I gave the Court Ernest Guerrero yesterday as part
14 of the Freddie Sanchez conspiracy.

15 THE COURT: That name doesn't ring a bell
16 to me.

17 MR. CASTELLANO: If not, I would add Ernest
18 Guerrero to that list.

19 THE COURT: This would be the Freddie
20 Sanchez?

21 MR. CASTELLANO: Yes, sir.

22 THE COURT: And how do you spell -- Ernest
23 I can probably handle. But what is the last name?

24 MR. CASTELLANO: G-U-E-R-R-E-R-O.
25

1 BY MR. CASTELLANO:

2 Q. Agent Stemo, Statement 22 indicates that
3 Edward Troup was told to go help with the Sanchez
4 murder. Who is the person who ordered that?

5 A. Javier Alonso.

6 Q. And did Javier Alonso admit that he told
7 Troup to go help with the murder?

8 A. He did.

9 Q. Statement 23 indicates that while Edward
10 Troup and Javier Alonso were finishing killing Mr.
11 Sanchez, that the Rascon brothers, Brian and Raymond,
12 came and asked if they could help. So what was the
13 background of the Rascon brothers showing up at the
14 scene of the murder?

15 A. The Rascon brothers were tasked to do the
16 hit originally. But when Javier Alonso approached
17 them, Raymond Rascon said they didn't want to do it
18 because they were short to the door, meaning they
19 were going to get out of prison shortly. Therefore,
20 Javier Alonso instructed Edward Troup and they both
21 went into Freddie Sanchez' cell and took care of
22 business. When they were doing that, the Rascon
23 brothers came to offer their aid as a way to save
24 face with the gang.

25 Q. And is Javier Alonso the source of that

1 information?

2 A. It is.

3 Q. So on Statement 24, when the Rascon
4 brothers show up at the door, does Javier Alonso then
5 tell them to keep lookout after they asked if they
6 could help?

7 A. Yeah. I think he tells them to keep aguas,
8 which means keep lookout.

9 Q. You said "keep aguas"?

10 A. Yes.

11 Q. In Statement 25, there is an indication by
12 Javier Alonso that Edward Troup had kissed him on the
13 cheek and told him he was proud of him. Was this in
14 relation to the murder of Freddie Sanchez?

15 A. Yes, I believe the kiss happened
16 afterwards.

17 Q. And did this happen on or about June 17,
18 2007?

19 A. Yes.

20 Q. Following the murder, in Statement Number
21 26 was an indication that Edward Troup began telling
22 Ruben Hernandez that he was next?

23 A. Yes.

24 Q. And what was the indication about Ruben
25 Hernandez at or around the time -- at or around the

1 time of the murder?

2 A. I believe Mr. Hernandez did not cover the
3 cameras properly.

4 Q. At that point, according to statements by
5 Javier Alonso and others, was Ruben Hernandez seen as
6 possibly scared and weak?

7 A. Yes, he was actually on crutches at the
8 time.

9 Q. Related to the statement, is there another
10 statement related to Edward Troup stating, in part,
11 that Ruben Hernandez failed to cover the camera
12 because he was scared?

13 A. Yes.

14 Q. Statement 27. There is an indication that
15 Arturo Garcia sent word about Sanchez to Ben Clark?

16 A. Yes.

17 Q. And are Ben Clark and Eric Duran sources of
18 that information?

19 A. They are.

20 Q. And consistent with a statement earlier by
21 Mr. Duran, was there an indication that Mr. Duran was
22 with Arturo Garcia when the order went out?

23 A. Yes.

24 Q. In Statement 28 it says Ben Clark and
25 Arturo Garcia sent several letters about Sanchez to

1 each other. Did Ben Clark indicate that he had
2 exchanged letters with Arturo Garcia about Sanchez?

3 A. He had.

4 Q. Did he indicate how the messages were sent
5 back and forth?

6 A. They were going through Mr. Arturo Garcia's
7 wife.

8 Q. Statement 29 indicates that Mr. Alonso and
9 Edward Troup were expected to oversee the murder, and
10 Troup told the Rascon brothers to hit Freddie
11 Sanchez?

12 A. Yes.

13 Q. Had Ben Clark and Javier Alonso both
14 indicated that this was the case?

15 A. They both have.

16 Q. Statement Number 30 indicates that Leonard
17 Lujan told Willie Amador and Jesse Ibarra to handle
18 that, and told Eugene Martinez that "I'm running this
19 prison now." In this statement, is Eugene the source
20 of the information?

21 A. Yes.

22 Q. Did he indicate that Leonard Lujan told him
23 this?

24 A. He did.

25 Q. And at this time when that statement was

1 made, was Eugene Martinez in the same pod as
2 Mr. Garza?

3 A. He was.

4 Q. Statement Number 31 indicates that
5 Christopher Chavez heard about the hit on Garza and
6 volunteered to participate in the operation. Did
7 Mr. Eugene Martinez indicate that this was the case?

8 A. Yes.

9 Q. Did he also indicate why Mr. Chavez might
10 have a motive to join in on this murder?

11 A. I believe there were two reasons. One was
12 that Mr. Garza would withhold heroin papers from
13 Mr. Chavez.

14 And the second was back when Mr. Garza and
15 Mr. Chavez were housed at the old Albuquerque jail,
16 Mr. Garza actually stole Mr. Chavez's shoes while he
17 was asleep. When Mr. Chavez woke up, he tried to get
18 his shoes back, and Mr. Garza basically told him,
19 "You're not getting your shoes back. You need to
20 PC."

21 Q. He said "PC"?

22 A. Yes.

23 Q. Statement 32 indicates that Willie Amador
24 told Eugene Martinez to be lookout during the Garza
25 murder, and stated "If something happens, you already

1 know." And so in that situation, did Eugene Martinez
2 indicate that Willie Amador told him to look out?

3 A. He did.

4 Q. And what did the further statement, "If
5 something happens, you already know" mean to Eugene
6 Martinez?

7 A. If something happens in that cell, they
8 need assistance, Mr. Martinez had to help.

9 Q. And when you say "assistance," is that
10 related to the Garza murder?

11 A. It is.

12 Q. Statement Number 33 indicates that, "While
13 strangling Garza, someone in the room yelled 'close
14 the door.'" Did Mr. Martinez indicate that he heard
15 that statement coming from the cell?

16 A. He did.

17 Q. Did he indicate that Allen Patterson and
18 Christopher Chavez were two people in that cell?

19 A. They were.

20 Q. Statement Number 34 indicates Leonard Lujan
21 approached Eugene Martinez and told him to talk to
22 Willie Amador about the murders?

23 A. Yes.

24 Q. And is this similar to I think what we had
25 in statement 30?

1 A. Yes.

2 Q. In Statement 35 there is an indication that
3 Eugene Martinez asked Billy Garcia, and Billy Garcia
4 confirmed the order and said, "It's coming from me
5 and make sure it happens."

6 Is this an indication that Eugene Martinez
7 had a direct conversation with Billy Garcia?

8 A. It is.

9 Q. Once again, was Eugene Martinez tasked with
10 overseeing and participating in the murder of
11 Mr. Garza?

12 A. Yes.

13 Q. Okay. Statement 36 indicates that Joe
14 Gallegos later informed Leroy Lucero that "Lawrence
15 Torres saw and was concerned that Torres might
16 snitch." Is this related to the Castillo murder?

17 A. It is.

18 Q. In terms of timing, did this one actually
19 happen on March 26, 2001, or was that later?

20 A. It was later, about four or five years
21 later.

22 Q. And so was there an indication by Joe
23 Gallegos that Lawrence Torres might snitch, having
24 seen something related to the murder?

25 A. Yes.

1 MR. BENJAMIN: Your Honor, I don't know --
2 if I may, I don't know if it would be more
3 appropriate on cross, but I didn't understand what
4 "four or five years later" referred to.

5 MR. CASTELLANO: I'll clarify, Your Honor.
6 I think statement 36 will actually be an admission
7 and not a co-conspirator statement, looking at this
8 more closely. So the indication is that Joe Gallegos
9 later informed Leroy Lucero, four or five years
10 following the murder, that he was concerned about
11 Lawrence Torres. So I would agree this one is
12 probably not a co-conspirator statement, but
13 something more akin to an admission.

14 THE COURT: Okay. All right.

15 BY MR. CASTELLANO:

16 Q. Statement Number 37 indicates that Edward
17 Troup told Lawrence Torres, "This has nothing to do
18 with you. Don't come up here." Can you put that
19 statement into context, Agent Stemo?

20 A. On the morning of the murder, March 26,
21 2001, Lawrence Torres woke up. As he walked out to
22 heat up water for his coffee, he saw Angel DeLeon and
23 Edward Troup, and it looked like to him that they
24 were disassembling a laundry bag. He put his water
25 into the microwave, went back to his cell. He heard

1 a struggle, so he looked out to see what was
2 happening, and he saw Mr. Edward Troup sitting at a
3 table. Mr. Torres tried go upstairs to see what was
4 happening, and that's when Mr. Troup made that
5 statement.

6 Q. And this is a statement made by Edward
7 Troup to Lawrence Torres?

8 A. Yes.

9 Q. In statement 38, it indicates that Angel
10 DeLeon had a scratch on his finger and told a female
11 corrections officer that he cut himself. Did Mr.
12 Torres hear Angel DeLeon say that?

13 A. He did.

14 Q. And what was the indication or the concern
15 about Angel DeLeon having a scratch on his finger?

16 A. He wanted people to know that he had cut
17 himself so that they didn't tie that injury to the
18 murder of Mr. Castillo.

19 Q. So was there an indication that Angel
20 DeLeon had participated in that murder?

21 A. There was.

22 Q. In Statement 39, there is an indication
23 that Kyle Dwyer traveled to the Southern New Mexico
24 Correctional Facility with paperwork on Sanchez. Did
25 Mr. Clark indicate that Kyle Dwyer had brought

1 paperwork to the facility?

2 A. He did.

3 Q. What was the purpose of bringing the
4 paperwork?

5 A. It's confirmation that someone has
6 cooperated with law enforcement.

7 Q. And at this point, are you aware of
8 anything that Kyle Dwyer said in relation to
9 delivering the paperwork?

10 A. No.

11 Q. Statement Number 40 indicates that the
12 paperwork came from the Crazy Town Roswell Gang. Is
13 this the paperwork we just discussed in Statement
14 Number 39?

15 A. Yes.

16 Q. What was the purpose of the Crazy Town
17 Roswell Gang turning this paperwork over to the SNM?

18 A. Mr. Sanchez was actually from Roswell.
19 These individuals would have been familiar with Mr.
20 Sanchez.

21 Q. And was there any indication that Mr.
22 Sanchez had allegedly cooperated with law enforcement
23 in Roswell?

24 A. Yes.

25 Q. And was there also an indication that the

1 Crazy Town Roswell Gang turned this over to the SNM
2 so they could clean their own house?

3 A. Yes.

4 Q. In Statement 41 is an indication that Joe
5 and Andrew Gallegos "just," quote, unquote, "pulled a
6 job and had to go clean up," and that they were
7 giving heroin and money to friends to help them out.
8 And Joe Gallegos said, quote, unquote, "I just came
9 up." So the first part of that, there are probably a
10 couple of statements in there. But there is an
11 indication that when the Gallegos brothers indicated
12 they'd just pulled a job, did they use the term
13 "movida"?

14 A. Yes.

15 Q. And when Leroy Vallejos or Michael Sutton
16 were there hearing those statements, what was the
17 understanding of Joe Gallegos' comment, "I just came
18 up"?

19 A. That they had just acquired money and
20 drugs.

21 Q. And did this happen on or about November
22 12, 2012, the time of the Adrian Burns murder?

23 A. Yes.

24 Q. In Statement Number 42 it indicates that
25 Joe and Andrew Gallegos were covered in blood and

1 advised they were, quote, unquote "cleaning the
2 house." Did that also happen on or about November
3 12, 2012?

4 A. Yes.

5 Q. The second part of Statement 42 indicates
6 that "Joe Gallegos later went by Leroy Vallejos'
7 house and tried to give Vallejos his and Andrew
8 Gallegos' truck."

9 What's the approximate timing of when Joe
10 Gallegos tried to give his truck to Mr. Vallejos?

11 A. I believe it was two to three days later.

12 Q. And by "later," you mean after the murder?

13 A. Yes.

14 Q. So is it your understanding that by trying
15 to get rid of the truck, that may have been involved
16 with the homicide or tied to it?

17 A. Yes.

18 Q. Exhibit 43 is one we touched on yesterday
19 regarding Charlene Baldizan agreeing to get rid of
20 the van that the Gallegos brothers knew the police
21 were looking for. And did that happen approximately
22 November 20 of 2012?

23 A. It did.

24 Q. And according for Charlene Baldizan, did
25 she indicate that the brothers knew that the police

1 were looking for it?

2 A. Yes.

3 Q. And did she indicate which brother, or did
4 she say "the brothers"?

5 A. I think she said "the brothers."

6 Q. And at some point was Charlene Baldizan
7 arrested for harboring a fugitive?

8 A. Yes.

9 Q. As best as you remember, if you recall, was
10 Charlene Baldizan involved in any way in helping the
11 Gallegos brothers to get the hotel?

12 A. She was there.

13 Q. And when they were at the hotel, did that
14 mean they had left where they lived and were they
15 later found at a hotel away from their home?

16 A. Yes.

17 Q. Was there an indication that law
18 enforcement was looking for them at that time?

19 A. There was.

20 Q. In statement 44 it indicates that --

21 MR. CASTELLANO: Your Honor, in Statement
22 44 I'm going to remove the words "and Andrew," so it
23 should just say, "Joe Gallegos asked Jason Van Veghel
24 to clean up the living room."

25 THE COURT: Okay.

1 BY MR. CASTELLANO:

2 Q. So referring to Joe Gallegos and cleaning
3 up the living room, did Jason Van Veghel indicate
4 that Joe Gallegos asked him to do that and gave him
5 some heroin for doing it?

6 A. Yes.

7 Q. And was there also an indication that Joe
8 Gallegos asked Van Veghel to clean blood off of an
9 air compressor?

10 A. Yes.

11 Q. And approximately when did this happen?

12 A. The next morning.

13 Q. And when you say "the next morning," is
14 that the morning following the Burns murder?

15 A. Yes.

16 Q. Statement 45 indicates that the next day at
17 Joe Gallegos' request Andrew Gallegos threw a set of
18 keys and a wristwatch into a field. Did Jason Van
19 Veghel tell law enforcement this information?

20 A. He did.

21 Q. And how does he know this information?

22 A. He was in the truck with him.

23 Q. Okay. So were they driving down the road
24 in a truck?

25 A. They were.

1 Q. That's the point where Joe Gallegos asked
2 Andrew Gallegos to throw those things out of the
3 vehicle?

4 A. Yes.

5 Q. And how close in time did this happen to
6 the murder?

7 A. It was one or two days after the murder.

8 Q. In Statement 46 it indicates that "Joe
9 Gallegos found out police were coming to search the
10 house and he gave several guns and other stolen goods
11 to Jason Van Veghel to store elsewhere." How close
12 in time did this allegedly happen to the Burns
13 murder?

14 A. One or two days after.

15 Q. And did Jason Van Veghel indicate that
16 this, in fact, happened?

17 A. Yes.

18 Q. In referring to firearms, was there an
19 indication that Adrian Burns, in addition to being
20 burned, was also shot?

21 A. Yes.

22 THE COURT: What is your theory on the
23 shooting? I notice at some places it was a shotgun,
24 other places a .22.

25 MR. CASTELLANO: I have to check the

1 records. I think it's probably something more akin
2 to a .22.

3 THE COURT: Okay.

4 BY MR. CASTELLANO:

5 Q. Statement Number 47 indicates that Santos
6 Gonzalez told Jose Gomez, "You remember me?"

7 "Do you remember," that first part, is that
8 an indication that Jose Gomez said Santos Gonzalez
9 said those words to him at the time that he and
10 others assaulted Jose Gomez?

11 A. Yes.

12 Q. And was that on or about February 27, 2016,
13 the actual day of the assault?

14 A. It was.

15 Q. Now, the second part of Statement 47
16 indicates they then told Gomez that Joe Gallegos put
17 a hit out on him and they were there to kill him?

18 A. Yes.

19 Q. So when Jose Gomez said "they," who was he
20 referring to?

21 A. Santos Gonzalez, Brandy Rodriguez, and Paul
22 Rivera. I believe he also mentioned another female,
23 but he couldn't remember her name.

24 Q. Statement Number 48 indicates that Shauna
25 Gutierrez said, quote, unquote, "They didn't finish

1 him after Gomez ran away." Who is the source of this
2 information?

3 A. Brandy Rodriguez.

4 Q. Was this information that Shauna Gutierrez
5 had following the assault on Jose Gomez?

6 A. Yes.

7 MR. CASTELLANO: And Your Honor, Statement
8 48, I can tell the Court, Brandy Rodriguez is not
9 cooperating with the Government at this time, but I
10 am submitting this statement for the Court's
11 consideration in case that changes. So this is just
12 for admissibility purposes right now.

13 THE COURT: Would you agree it's probably
14 not a co-conspirator statement?

15 MR. CASTELLANO: I agree that statement is
16 probably not coming in, unless Brandy is the source
17 of that information or someone else heard that
18 statement.

19 THE COURT: In other words, unless she's
20 here and on the stand?

21 MR. CASTELLANO: I agree. I'm trying to
22 give the Court as much information beforehand as
23 possible.

24 THE COURT: Okay.

25

1 BY MR. CASTELLANO:

2 Q. Statement 49 indicates that Santos Gonzalez
3 and Paul Rivera knocked at Charlene Parker-Johnson's
4 door and then told her that she should leave the
5 house. Was Charlene Parker-Johnson the person who
6 said that Santos Gonzalez and Paul Rivera said these
7 things to her?

8 A. Yes.

9 Q. And was this on the date of the actual
10 assault of Jose Gomez?

11 A. It was.

12 Q. Statement 50 indicates that Santos Gonzalez
13 and Paul Rivera yelled, "He's running," and, "He's
14 running away," when Jose Gomez started to run. Did
15 Charlene Parker-Johnson also hear these words by
16 Santos Gonzalez and Paul Rivera?

17 A. Yes.

18 Q. What was the context of Jose Gomez running
19 away? Was this after he'd been knocked unconscious
20 with a machete and another object?

21 A. Yes. After the assault, the assailants
22 actually exited the house. They thought he was dead.
23 And Mr. Gomez came to and was able to get away.

24 Q. And is that the context in which these
25 statements were made, "He's getting away," or "He's

1 running"?

2 A. Yes.

3 Q. Statement 51 indicates that Joe Gallegos
4 placed a hit on Gomez because Joe Gallegos feared
5 Gomez would testify against him on a state murder
6 charge. Is Paul Rivera the source of that
7 information?

8 A. He is.

9 Q. And are Shauna Gutierrez and Brandy
10 Rodriguez the ones who told Paul Rivera this?

11 A. Yes.

12 Q. Now, I'm looking at Count 13 of the
13 indictment, which is assault with a dangerous weapon
14 upon Jose Gomez occurring on or about March 17, 2015.
15 Was this the incident in which Jose Gomez was
16 supposed to be a witness against Joe Gallegos where
17 he cut his hand?

18 A. I don't think that was in 2017.

19 Q. March 17, 2015? Beforehand?

20 A. Yes.

21 Q. At one point was that charged in state
22 court?

23 A. I believe so.

24 Q. And was Jose Gomez supposed to be a witness
25 against Joe Gallegos in that case?

1 A. Yes.

2 Q. Statement 52 indicates, "Upon learning
3 where Gomez was staying, Shauna Gutierrez and Brandy
4 Rodriguez agreed they needed to go after Gomez."

5 Did Paul Rivera and Brandy Rodriguez both
6 indicate that this was the case?

7 A. Yes.

8 Q. Statement 53 indicates that Paul Rivera
9 agreed to help with the hit on Gomez. And so was
10 that by his own admission?

11 A. It was.

12 Q. Statement 54 is attributed to Brandy
13 Rodriguez saying, "You better not testify against my
14 jefe, or I'll kill you." Did Paul Rivera hear that
15 statement during the assault?

16 A. He did.

17 Q. And did Brandy Rodriguez say that?

18 A. Yes.

19 Q. Was there any indication that Brandy
20 Rodriguez referred to or considered Joe Gallegos her
21 boss?

22 A. Yes.

23 Q. How do you know that?

24 A. I believe I've seen letters where she
25 addresses him as such, or jefito.

1 Q. And Statement 55 indicates that Santos
2 Gonzalez also stated he was going to kill Gomez. Did
3 Paul Rivera hear that during -- at or about the time
4 of the Jose Gomez assault?

5 A. Yes.

6 Q. Statement 56 indicates that Brandy
7 Rodriguez, Paul Rivera, and Santos Gonzalez told
8 Shauna Gutierrez they had completed their mission,
9 and did that refer to the assault on Jose Gomez?

10 A. It did.

11 Q. And was that immediately following the
12 assault?

13 A. Yes.

14 Q. Was there also an indication that Shauna
15 Gutierrez laughed and said she was happy to hear
16 Gomez was likely dead?

17 A. Yes.

18 Q. And is Paul Rivera the source of that
19 information?

20 A. Yes.

21 Q. Statement 57 indicates that Shauna
22 Gutierrez told Santos Gonzalez to move the truck they
23 had used to another location and leave it for a few
24 days. Did Paul Rivera hear Shauna Gutierrez say
25 those words?

1 A. He did.

2 Q. And was that the truck that was allegedly
3 involved with them driving over to assault Jose
4 Gomez?

5 A. It was.

6 Q. So by moving the truck, would that help
7 them avoid detection by law enforcement?

8 A. Yes.

9 Q. Okay. Statement 58 I'm going to break down
10 into two parts, starting with the second part. Was
11 there an indication that Shauna Gutierrez told Paul
12 Rivera, Santos Gonzalez, and Brandy Rodriguez to go
13 get him, referring to Jose Gomez?

14 A. Yes.

15 Q. So is that a statement before the assault?

16 A. It is.

17 Q. And then after the assault, was there an
18 indication that Shauna Gutierrez said, "How come you
19 guys didn't do the job more fully?"

20 A. There was.

21 Q. Was that, once again, when they reported
22 back to Shauna Gutierrez following the Jose Gomez
23 assault?

24 A. Yes.

25 Q. Statement 59 has the words "Don't testify"

1 in quotes. Was that an indication that Paul Rivera
2 told Jose Gomez not to testify?

3 A. Yes, during the assault.

4 Q. Is that by Paul Rivera's own admission?

5 A. Yes.

6 Q. Statement 60 indicates that Brandy
7 Rodriguez and Shauna Gutierrez had people in place
8 for an attack on Gomez. The date on there is
9 indicated as March 29, 2017. Do you know why that
10 date is listed?

11 A. That's the date Mario Chavez spoke with
12 FBI.

13 Q. What was Mario Chavez' relationship with
14 Brandy Rodriguez, Shauna Gutierrez, and Joe Gallegos?

15 A. He stated that he was an intermediary
16 between the three. He would pass letters between Joe
17 Gallegos, who was in county jail at the time, and
18 Brandy Rodriguez and Shauna Gutierrez.

19 Q. And from Mario Chavez' statement at this
20 point, do you know if he learned about this
21 information before or after the Jose Gomez assault?

22 A. I don't know.

23 Q. Statement 61 indicates Joe Gallegos ordered
24 the hit on Gomez, and Shauna Gutierrez planned the
25 hit. Is that also attributed to Mario Chavez?

1 A. It is.

2 Q. And in the table I had the declarant as
3 Shauna Gutierrez. Should that actually be Brandy
4 Rodriguez, the declarant of that information?

5 A. Yes.

6 MR. CASTELLANO: Your Honor, on Statement
7 Number 61, the declarant should be Brandy Rodriguez
8 and not Shauna Gutierrez.

9 THE COURT: All right.

10 BY MR. CASTELLANO:

11 Q. And when Mario Chavez told you that Joe
12 Gallegos ordered the hit on Gomez and that Shauna
13 Gutierrez planned the hit, do you know if he learned
14 that information before or after the Gomez assault?

15 A. I don't know.

16 Q. On Statement Number 62 --

17 MR. BENJAMIN: Your Honor.

18 THE COURT: Yes.

19 MR. BENJAMIN: May I ask the Government to
20 clarify they're not limiting that statement the same
21 way that they did the last one if Brandy Rodriguez
22 doesn't testify?

23 MR. CASTELLANO: Well, all these statements
24 are dependent on the source of the information
25 testifying, Your Honor.

1 THE COURT: Okay.

2 MR. CASTELLANO: What we're asking for is
3 initial rules on admissibility.

4 One thing I will say about Statement Number
5 61 is, if Mario Chavez learned of this information
6 before or at or about the time of the assault, it
7 would be a co-conspirator statement. If it was made
8 following, it's an admission by Brandy Rodriguez; it
9 would then be considered a statement against
10 interests or an admission by Brandy Rodriguez. And
11 at this point we do not know the timing where Mario
12 Chavez learned that information in either Statement
13 60 or Statement 61.

14 THE COURT: Now, Rodriguez -- his name is
15 Randy?

16 MR. CASTELLANO: Brandy Rodriguez. And
17 Brandy Rodriguez was one of the people who
18 participated in the assault against Jose Gomez.

19 THE COURT: Okay.

20 MR. CASTELLANO: But the same applies, I
21 would say, with Statements 60 and 61. If we have
22 further information that that happened, the
23 information there was learned before the assault,
24 they would be co-conspirator statements. And if they
25 were learned after the assault, they would either be

1 admissions and/or statements against interests.

2 BY MR. CASTELLANO:

3 Q. Turning to Statement Number 62, Agent
4 Stemo, there is an indication that paperwork on
5 Sanchez, meaning Freddie Sanchez, was delivered from
6 Arturo Garcia to Ben Clark approving the murder. And
7 we have three sources of information. So was there
8 an indication that Samuel Gonzales, John Montano, and
9 Javier Rubio provided information to this effect?

10 A. Yes.

11 Q. Was there also indication from the reports
12 that Joe Martinez, also known as Cheech, helped to
13 deliver the paperwork?

14 A. There was.

15 Q. Okay. Statement Number 63 lists Cheeky and
16 Coquito being tasked with the murder of Sanchez, but
17 did not want to carry it out. So once again, for
18 clarification, is Cheeky Raymond Rascon?

19 A. Yes.

20 Q. And is Coquito Brian Rascon?

21 A. Yes.

22 Q. And is that information that they told to
23 Samuel Gonzalez?

24 A. Yes.

25 Q. Statement 64 indicates that Javier Alonso

1 asked how to get rid of the marks on his hands from
2 strangling Freddie Sanchez. Did Samuel Gonzales hear
3 Javier Alonso make that remark?

4 A. He did.

5 Q. Statement 65 refers to two things. The
6 first is a statement by Ben Clark that John Montano
7 heard on or about the time of the Freddie Sanchez
8 murder, and the quote is, "That'd be messed up if the
9 paperwork on the guy I just got showed up."

10 So was that an indication of a reference to
11 Freddie Sanchez?

12 A. Yes.

13 Q. And the second part of that Statement 65
14 indicates that Ben Clark also sent Arturo Garcia a
15 list of names of people in the pod. Was that also
16 referred to as a roll call?

17 A. Yes.

18 Q. What was your understanding, if you know,
19 of the purpose of the names that Arturo Garcia
20 requested from Benjamin Clark?

21 A. So that he would know who was present at
22 the pod and who would be next, or who hasn't put in
23 work.

24 Q. And Statement 66 indicates that Edward
25 Troup and Javier Alonso attempted to hide in John

1 Montano's cell after lockdown following the Sanchez
2 murder.

3 MR. BURKE: Your Honor, objection. It's
4 not a statement.

5 MR. CASTELLANO: I would agree with that,
6 Your Honor. And what we don't know at this point is
7 what Edward Troup and Javier Alonso may have said to
8 John Montano, or what the interaction was. So I give
9 that to the Court for the Court's information, and if
10 we provide more information on that, we'll supplement
11 the record, Your Honor.

12 THE COURT: So it's kind of a placeholder
13 that you think there were some statements made there?

14 MR. CASTELLANO: Yes, sir. At this point I
15 agree it is an act, but nothing else. But we will
16 supplement with words if we find them.

17 BY MR. CASTELLANO:

18 Q. Statement Number 67 indicates that Jimmie
19 Gordon was asked to get information on Garza from
20 Geraldine Martinez. And is this Garza in terms of
21 the Rolando Garza murder?

22 A. It is.

23 Q. And who was Geraldine Martinez?

24 A. She was a librarian.

25 Q. Was she a librarian at the prison facility?

1 A. She was.

2 Q. Was Jimmie Gordon aware of any information
3 about Garza and a potential hit on him?

4 A. He was. He mentioned being in, like, a
5 committee where they were discussing who was green
6 lit.

7 Q. And then at some point right before the
8 Garza murder, was it then that Geraldine Martinez
9 asked him to get information about Garza?

10 A. Yes.

11 Q. Okay. Statement Number 68 indicates Billy
12 Garcia put a hit on Archuleta, referring to Gerald
13 Archuleta, which is communicated to him through Baby
14 Zack over a disagreement about Castillo's murder.
15 And is this actually information we learned from
16 testimony and statements by Gerald Archuleta?

17 A. I know about the statements. I wasn't here
18 for the testimony.

19 Q. What about the statements? Was it an
20 indication that Baby Zack approached Gerald Archuleta
21 to kill him at Billy Garcia's request?

22 A. Yes.

23 MR. CASTELLANO: And, Your Honor, for -- I
24 didn't have a name yesterday. I believe Baby Zack is
25 identified as Reynaldo Garcia.

1 THE COURT: Let's see where I had him on my
2 chart.

3 MR. CASTELLANO: He would be a separate
4 conspiracy that was identified yesterday.

5 THE COURT: Oh, okay. For Archuleta.

6 MR. CASTELLANO: Yes.

7 THE COURT: All right. The name again?

8 MR. CASTELLANO: Reynaldo, R-E-Y-N-A-L-D-O.
9 Last name, Garcia.

10 BY MR. CASTELLANO:

11 Q. Okay. Ms. Stemo, turning to Statement
12 Number 69, there is an indication that Brandy
13 Rodriguez kicked Jose Gomez and said, "This is a
14 message from Joe." Did Paul Rivera hear that during
15 the assault on Jose Gomez?

16 A. He did.

17 Q. And was Brandy Rodriguez one of the people
18 who was there to assault Jose Gomez?

19 A. Yes.

20 Q. Okay. Statement Number 70 indicates that
21 Shauna Gutierrez stated she is, quote, unquote, "ride
22 or die with Joe Gallegos," after admitting she and
23 Joe Gallegos put a hit on Brandy Rodriguez based on
24 the belief that she was cooperating.

25 Now, in terms of the timing of this

1 statement, what do we know about its timing?

2 A. It was around the time that Paul Rivera had
3 chosen to cooperate. He and Shauna Gutierrez were in
4 a transport van together and headed to court, and
5 that's when she made these statements to him.

6 Q. So is this a statement made following the
7 assault on Jose Gomez?

8 A. Yes.

9 MR. CASTELLANO: Your Honor, I would not
10 identify this as a co-conspirator statement related
11 to the assault on Jose Gomez, but as a separate
12 conspiracy to harm Brandy Rodriguez. And this is
13 based on the belief that she was cooperating with law
14 enforcement. That's Statement Number 70.

15 THE COURT: So this is --

16 MS. ARELLANES: Judge, I think that's
17 basically irrelevant to the counts for which Shauna
18 has been indicted.

19 THE COURT: Well, let me see if I
20 understand what the Government is suggesting. So
21 this is -- I think we had seven conspiracies. You
22 got an eighth one now?

23 MR. CASTELLANO: Yes.

24 THE COURT: And tell me what you're going
25 to call this one.

1 MR. CASTELLANO: I would say conspiracy to
2 hit Brandy Rodriguez. At this point in time there
3 was a belief, right before Paul Rivera was
4 cooperating -- he wasn't yet -- that Brandy Rodriguez
5 was cooperating with law enforcement, and Shauna
6 Gutierrez made a statement to him that she and Joe
7 Gallegos had put a hit out on Brandy.

8 THE COURT: Okay. And your conspirators in
9 this eighth conspiracy?

10 MR. CASTELLANO: The two would be Shauna
11 Gutierrez and Joe Gallegos. Among other things, in
12 terms of a co-conspirator statement, it could be to
13 avoid detection by law enforcement. So in other
14 words, if they believed that Brandy Rodriguez would
15 provide damaging information against them, putting a
16 hit on her would help avoid that situation.

17 BY MR. CASTELLANO:

18 Q. Agent Stemo, looking at Statement Number
19 71, it indicates Christopher Chavez asked the
20 question: "Is this right?" in reference to the Garza
21 murders, and Leroy Lucero responded, "You got to do
22 what you got to do."

23 Did Leroy Lucero indicate this is a
24 conversation he had with Christopher Chavez?

25 A. Yes.

1 Q. Did this conversation take place before the
2 Garza and Castillo murders?

3 A. It did.

4 Q. And what was the context, according to
5 Leroy Lucero, in which Christopher Chavez asked this
6 question?

7 A. Mr. Lucero said that Mr. Chavez came up to
8 him and was unsure about the murder. That's why he
9 asked. Mr. Lucero told him, "You got to do what you
10 got to do."

11 And then Mr. Chavez kind of stuck around
12 Mr. Lucero until he was released. Mr. Lucero thought
13 that Mr. Chavez was staying by him because Mr. Lucero
14 and Mr. Garza were close, and he didn't want Mr.
15 Lucero to forewarn Mr. Garza.

16 Q. So when Leroy Lucero indicated that
17 Christopher Chavez wasn't sure about the murder, was
18 he clarifying whether or not there was, in fact, a
19 green light on Mr. Garza?

20 A. Yes.

21 Q. Statement 72 indicates that Javier Alonso
22 asked if the marks on his hands were noticeable. Was
23 that a statement he made to John Montano?

24 A. Yes.

25 Q. And was this following the Freddie Sanchez

1 murder?

2 A. It was.

3 Q. And was there concern that Javier Alonso
4 had marks on his hands from the strangulation?

5 A. Yes.

6 Q. Statement 73 indicates that Edward Troup
7 and/or Jesse Trujillo ordered the surveillance
8 cameras covered. This is -- the source being Ruben
9 Hernandez?

10 A. Yes.

11 Q. Did Ruben Hernandez, in separate
12 statements, mention both Jesse Trujillo and Edward
13 Troup?

14 A. He did.

15 Q. And what was the purpose of covering the
16 surveillance cameras?

17 A. So that the correctional officers couldn't
18 watch what was happening.

19 Q. Was Ruben Hernandez one of the people who
20 was supposed to cover the cameras?

21 A. Yes.

22 Q. And was Jesse Trujillo one of the other
23 people?

24 A. Yes.

25 Q. Statement 74 has the quote, "Now hurry,

1 Bolo, now you know what time it is," in reference to
2 covering the cameras. Is that a statement that Jesse
3 Trujillo made to Ruben Hernandez?

4 A. Yes.

5 Q. And once again, was that a reference to
6 covering the cameras to avoid detection by law
7 enforcement for the Freddie Sanchez murder?

8 A. Yes.

9 Q. Statement 75 indicates a quote by Jesse
10 Trujillo that said, "Just stay there and don't let no
11 one in. Use your crutch to block the door if you
12 have to." Was that a statement by Jesse Trujillo to
13 Ruben Hernandez?

14 A. Yes.

15 Q. And what was the purpose of making that
16 statement?

17 A. Mr. Hernandez was not in great physical
18 shape since he was on crutches, and his attempts to
19 block the camera weren't working out very well. So
20 Mr. Trujillo instructed him to do something else
21 since he was also helping cover cameras.

22 Q. Statement 76 has a quote, "Ya estuvo,"
23 meaning "all done; take them off," in reference to
24 the camera covers. Did Jesse Trujillo tell that to
25 Ruben Hernandez once the murder happened and they

1 were now uncovering the cameras?

2 A. Yes.

3 Q. And by murder, I mean the Freddie Sanchez
4 murder.

5 A. Yes.

6 Q. Statement 77 indicates that "Kyle asked
7 Ruben Hernandez to take something to Samuel Gonzales
8 and to tell Samuel Gonzales, 'that was all he had.'"
9 Do you remember the context of the passing of this
10 paperwork?

11 A. Mr. Gonzales asked Ruben to go get
12 something from Mr. Dwyer. Mr. Dwyer had a piece of
13 paper on the ground, and that's when he made the
14 statement that was all he had. Mr. Hernandez grabbed
15 what was there and took it to Mr. Gonzales.

16 Q. And so in Statement Number 77 where we have
17 the name Kyle, does that refer to Kyle Dwyer?

18 A. I believe so.

19 Q. And is Statement 78 tied to Statement 77
20 where "Samuel Gonzalez asked if Sanchez was dead, and
21 then again asked, 'For real, is he dead?'"

22 A. Yes.

23 Q. And is that a statement or a question that
24 Samuel Gonzalez posed to Ruben Hernandez?

25 A. It was.

1 Q. Is that when Ruben Hernandez gave the
2 paperwork to Samuel Gonzalez?

3 A. I think it was right after.

4 Q. Statement 79 has the name Chicky. Is that
5 also supposed to be Cheeky, referring to Raymond
6 Rascon?

7 A. Yes.

8 Q. And so in this situation was Raymond Rascon
9 cutting off his sleeves and asking Ruben Hernandez to
10 hang up his wet sleeves?

11 A. Yes.

12 Q. And was this following the Freddie Sanchez
13 murder?

14 A. It was.

15 Q. Was there an indication or concern that
16 Raymond Rascon was cutting off his sleeves because
17 there might be something incriminating on the
18 material?

19 A. Yes.

20 Q. And the same thing with Statement Number 80
21 where it says Edward Troup told Chicky or Cheeky to
22 cut his sleeves in small pieces or give the sleeves
23 to someone next door?

24 A. Yes.

25 Q. Was that a statement that Edward Troup made

1 to Ruben Hernandez?

2 A. I think he overheard it.

3 Q. And when he overheard it, was that for the
4 purpose of disposing evidence?

5 A. Yes.

6 Q. Statement Number 81 has a quote which says,
7 "First thing in the morning we need you to move the
8 body in the fetal position and wipe down the toilet."

9 On this one, for clarification, is this a
10 statement by Brian Rascon to Ruben Hernandez?

11 A. Yes.

12 MR. CASTELLANO: Your Honor, Statement
13 Number 81, the declarant should be -- I'm sorry, I
14 think it is at different times --

15 Q. Was there an occasion that both Brian
16 Rascon and Edward Troup said these things to Ruben
17 Hernandez?

18 A. Yes.

19 Q. In Statement 82 there is a quote that says,
20 "That's what we are all asking of you," which is a
21 statement told to Ruben Hernandez when he didn't want
22 to clean the cell. When we refer to cleaning the
23 cell, is that the cell where Freddie Sanchez was?

24 A. Yes.

25 Q. And did Brian Rascon make that statement to

1 Ruben Hernandez?

2 A. He did.

3 Q. Statement 83 also has another quote that
4 says, "Now, that's an order. You already know what
5 time it is." So is that a statement to Ruben
6 Hernandez when he continued not to want to clean the
7 cell?

8 A. Yes.

9 Q. And did Brian Rascon make that statement to
10 Ruben Hernandez?

11 A. He did.

12 Q. Was the purpose of cleaning the cell to
13 hide any possible evidence of foul play?

14 A. Yes.

15 Q. Once again, is that the cell referring to
16 Freddie Sanchez's cell?

17 A. It is.

18 Q. Statement 84 indicates that, "Ruben
19 Hernandez asked if he was next for refusing to clean
20 the cell and Brian Rascon told him, 'No, the door is
21 closed. What can you do?'"

22 What did Ruben Hernandez communicate was
23 his concern when he was talking to Brian Rascon?

24 A. He thought that if he didn't follow through
25 with the orders of cleaning the cell, that he would

1 be next to be hit.

2 Q. Statement 85 is a statement attributable to
3 Edward Troup. It says, quote, unquote, "You're next,
4 motherfucker," said to Ruben Hernandez as they passed
5 each other. Is this a statement that Edward Troup
6 said to Ruben Hernandez following the Freddie Sanchez
7 murder?

8 A. Yes.

9 Q. And this is similar to I think Statement
10 Number 26, where there was concern that Ruben was
11 scared and viewed as weak, and had possibly failed to
12 cover the cameras?

13 A. Yes.

14 Q. Statement Number 86 is attributed to Jesse
15 Trujillo. And it says, "We better be ready for hell,
16 because we're fixing to go through hell." Was that
17 statement in relation to the Freddie Sanchez murder?

18 A. Yes.

19 Q. And was that an indication that people
20 should be prepared because they're going to get law
21 enforcement scrutiny following the murder?

22 A. Yes.

23 Q. Statement 87 indicates that Edward Troup
24 stated that it was every man for themselves, and if
25 you can get a plea bargain for 15 or less, to do it,

1 but no ratting. That's a no-no. In Statement 87, we
2 have on the table Brian Rascon is the declarant. Is
3 that actually a statement by Edward Troup?

4 A. Yes.

5 Q. Was there also indication by Edward Troup
6 that he was going to get life?

7 A. Yes.

8 Q. Statement 88 says -- has a quote, "Go wipe
9 down the toilet. Don't worry about moving the body,"
10 a statement by Brian Rascon to Ruben Hernandez?

11 A. Yes.

12 Q. Was that a statement made to Ruben
13 Hernandez the day following the Freddie Sanchez
14 murder?

15 A. Yes.

16 MR. CASTELLANO: May I have a moment, Your
17 Honor?

18 THE COURT: You may.

19 MR. CASTELLANO: Thank you. I pass the
20 witness.

21 THE COURT: All right. Thank you, Mr.
22 Castellano.

23 Who wants to go first on cross-examination?
24 Do you want to pick up, Mr. Benjamin? Mr. Castle?

25 MR. BENJAMIN: Your Honor, I can. I don't

1 necessarily -- I didn't know what the Court's
2 preference was as far as how it had its conspiracies
3 numbered. I've got the most statements, but --

4 THE COURT: I'll track however y'all want
5 to go. So y'all just decide how y'all want to go.

6 MR. BENJAMIN: Seeing nobody else jumping
7 up, Your Honor --

8 THE COURT: All right.

9 CROSS-EXAMINATION

10 BY MR. BENJAMIN:

11 Q. Agent, let me direct you -- I'm going to
12 try to do these in order as much as I can. The first
13 question I have is regarding Statement 13. This is a
14 statement that was made by Leonard Lujan, and is
15 attributed -- okay. You do have the chart. I think
16 it's on page 8.

17 And what is the statement that is Statement
18 13? Because that statement -- in the table, that's
19 simply an action, I think.

20 A. Just a moment. Mr. Alonso says he talked
21 to -- initially he says Joe Castillo, but then he
22 later clarifies. He talked "to Joe Castillo from
23 Belen, uh Criminal. I don't know his real name but
24 his name's Kriminal and then uh, Angel, a little dark
25 complected guy. Those three, I talked to all three of

1 them in front of (unintelligible) at the time, K, uh,
2 yeah in front of the K units right there in the walk
3 area and uh I told 'em exactly what, what, what, what
4 we wanted to do and me and Castillo had the, the
5 discussion. Me and Castillo had the discussion. Me
6 and Castillo" -- he's referring to Joe Gallegos --
7 "had the discussion that he wanted him to, uh, he had
8 told me, well, does he want us to give him a hotshot
9 or what, and I told him no, no, no, he wants you guys
10 to take him out and strangle him. He wants you guys
11 to strangle him out."

12 Q. So in regards to Statement 13, that is a
13 statement that was given in 2008 by Leonard Lujan,
14 correct?

15 A. 2007.

16 Q. I apologize. And that was a statement that
17 was given immediately -- it's about an hour and a
18 half statement, and it was given right before a court
19 setting; correct?

20 A. I'm not sure what setting they were in
21 front of.

22 Q. Okay. You can hear on the audio, "We've
23 got to go, the Court is ready"?

24 A. Sure. I haven't listened to it.

25 Q. Okay. How do you believe that this

1 statement was made? You're reading a transcript of
2 that interview?

3 A. Yes, but I've also been in meetings with
4 Leonard Lujan where he reiterates the information
5 he's given in the past.

6 Q. And he never in that statement refers to
7 Joe Gallegos as anything other than Joe Castillo;
8 correct?

9 A. Incorrect.

10 Q. When does he refer to him as Joe Gallegos?

11 A. In a couple seconds. Someone asked him if
12 he means Joe Gallegos, and he says yes.

13 Q. Correct. Leonard Lujan never refers to Joe
14 as Joe Gallegos; somebody else -- when he says
15 Castillo, the agent in the room says "Gallegos." And
16 he says, yes, and agrees with that?

17 A. That's correct. However, in other
18 statements he does say Joe Gallegos.

19 Q. Prior to this statement in 2007 does he say
20 Joe Gallegos?

21 A. Not that I know of.

22 Q. And so Leonard Lujan identifies Joe, pause,
23 pause, Joe, pause, Castellano I think, and somebody
24 else, an agent in the room, says "Gallegos"; correct?

25 A. In this instance, yes.

1 Q. Okay. And at no point in time prior to
2 that does he ever identify Joe Gallegos?

3 A. Not that I'm aware of.

4 Q. And then subsequent to that he identifies
5 him as Joe Gallegos because that's what the agent
6 told him; correct?

7 A. No, he's also shown a photo array or a
8 photo line-up. I'm not sure what the photo setup
9 was, but he's shown a photo and he clarifies that
10 that's him he talked to.

11 Q. After being prompted by the agent?

12 A. Yeah, I guess so.

13 Q. And that was a 2007 statement, not a 2001
14 statement as reflected in the table; correct?

15 A. Correct.

16 Q. Next would be Statement 36. And Agent, I
17 don't know if yours has the file numbers, but I was
18 just going to identify them by the page numbers
19 they're on. I think you probably have a prefilled
20 version. If you don't, it would be page 19 from
21 Document 1903, Attachment 1, Your Honor.

22 MR. BENJAMIN: And Your Honor, before I
23 forget, I'm looking at my notes; I would like to
24 clarify that the Court had asked whether document
25 1918 was Mr. Gallegos' objections or whether it was

1 group objections. I, at least on Mr. Gallegos'
2 behalf -- I think this is correct for all the
3 defendants -- am going to join the other defendants'
4 objections. I am simply dealing with the statements
5 that I believe are directly implicating Mr. Gallegos.
6 But I think that the other statements, whether or not
7 a conspiracy is formed or whether or not they're
8 accurate and correct, we would join those other
9 defendants for the record.

10 THE COURT: Okay.

11 MR. BENJAMIN: Thank you, Your Honor.

12 BY MR. BENJAMIN:

13 Q. Okay, Agent, are you at Statement 36?

14 A. Yes.

15 Q. And when and where was this statement made?

16 A. In New Mexico, January 2018.

17 Q. New Mexico, January 2018?

18 A. Yes.

19 Q. And I apologize. I probably should phrase
20 that a little bit better. When did Mr. Joe Gallegos
21 inform Leroy Lucero that he was concerned that
22 Lawrence Torres saw and was concerned he was a
23 snitch?

24 A. We don't have the exact timeframe. Mr.
25 Lucero estimates four to five years after 2001.

1 Q. Okay. And where was Lucero -- and I'll
2 refer to him as Joe because there are two Gallegoses.
3 Where were Lucero and Joe at when the statement was
4 made?

5 A. I believe they were at the PNM North unit.

6 Q. And four to five years is the best date you
7 have?

8 A. Yes.

9 Q. Do you know what pod they were in?

10 A. I don't.

11 Q. Okay. For corroboration purposes, did you
12 ever confirm that Leroy and Joe were in the same pod?

13 A. I think we ordered his location history. I
14 haven't had a chance to look at it.

15 Q. So we don't know if they were in the same
16 pod?

17 A. Right.

18 Q. And Leroy's contention is that this
19 statement was made at PNM North four or five years
20 after the fact?

21 A. Yes.

22 Q. And did he say why he thought Torres would
23 snitch?

24 A. Why Mr. Gallegos thought that?

25 Q. Did Joe tell Leroy why he thought Torres

1 would snitch?

2 A. Yes.

3 Q. Why?

4 A. He said Mr. Torres heard something and came
5 out of his cell, looked up, and saw what was going
6 on.

7 Q. Okay. But why did he think he would
8 snitch?

9 A. I don't know.

10 Q. Okay. Because this was four to five years
11 after the fact; correct?

12 A. Yes.

13 Q. And there had been at least two
14 investigations by the State of New Mexico in between
15 2001 and 2005?

16 A. For which murder?

17 Q. And I apologize if that was vague. The
18 State of New Mexico -- there were attempts to have
19 the murder investigated by the State of New Mexico,
20 by Susana Martinez' district attorney's office;
21 correct?

22 A. I don't know that.

23 Q. Okay. Are you aware whether or not the
24 2001 murder was attempted to be investigated before
25 2005?

1 A. Yes.

2 Q. Okay. And so there is no evidence to
3 suggest that Torres attempted to snitch before 2005;
4 correct?

5 A. No.

6 Q. Okay.

7 MR. CASTELLANO: Objection to relevance,
8 Your Honor. We're focusing on the statement and so
9 those are words attributable to Joe Gallegos. Those
10 are his words.

11 MR. BENJAMIN: And Your Honor, I think I'm
12 allowed to fully explore why that statement would
13 have been made and there's essentially additional
14 facts I think I can bring out.

15 THE COURT: Yeah, I'm not familiar enough
16 with these statements to make a fine-tuned
17 distinction, so I'll overrule and give you some
18 leeway.

19 MR. BENJAMIN: Thank you, Your Honor.

20 THE COURT: Let you explain this to me.

21 Let's do this: I hate to interrupt this
22 particular statement, but I need to give Ms. Bean a
23 break. So let me take about a 15-minute break and
24 we'll come back in.

25 MR. BENJAMIN: Thank you, Your Honor.

1 THE COURT: All right. We'll be in recess
2 for about 15 minutes.

3 (The Court stood in recess.)

4 THE COURT: All right. Let's go back on
5 the record. Look around the room. I think everybody
6 has got an attorney.

7 All right. Ms. Stemo, I'll remind you
8 you're still under oath.

9 Mr. Benjamin, if you wish to continue your
10 cross-examination of Ms. Stemo, you may do so at this
11 time.

12 MR. BENJAMIN: Thank you, Your Honor.

13 BY MR. BENJAMIN:

14 Q. Agent Stemo, we were on Statement Number
15 36, I believe. And this was the statement made by
16 Mr. Lucero regarding Joe being concerned that
17 Lawrence Torres would snitch; correct?

18 A. Yes.

19 Q. And my last question, if I'm not mistaken,
20 was -- excuse me -- if I'm not mistaken was whether
21 or not you knew of any investigations that had gone
22 on between 2001 and 2005 or '06; correct?

23 A. Yes.

24 Q. Because 2005 or 2006 would be four to five
25 years later after the murder?

1 A. Yes.

2 Q. And are you aware of any investigations
3 that had gone on?

4 A. Yes.

5 Q. Okay. And there were individuals
6 interviewed?

7 A. Yes.

8 Q. And do you know if Lawrence Torres had been
9 interviewed on any of those times?

10 A. He had.

11 Q. And he had not said anything about Joe
12 Gallegos; correct?

13 A. He had.

14 Q. Okay. And so why would Joe Gallegos be
15 informed that Lawrence would snitch if he had already
16 said something about Joe Gallegos?

17 A. I don't know.

18 Q. Okay. That doesn't make sense, does it?

19 A. I don't know.

20 Q. Okay. So when was Joe Gallegos at PNM?

21 A. I don't know.

22 Q. Okay. Are you aware Joe Gallegos was on
23 the streets in 2006?

24 A. No.

25 Q. Are you aware Joe Gallegos was discharged

1 in 2005 from the State of New Mexico?

2 A. No.

3 Q. That would make that timeline unreasonable;
4 correct?

5 A. It all depends.

6 Q. On what?

7 A. His memory. He could have said four to
8 five years when we pressed him. It could have been
9 earlier.

10 Q. And he could have not remembered the
11 statement accurately; correct?

12 A. That's possible.

13 Q. And there is nothing else to corroborate
14 that the statement existed?

15 A. Yes.

16 Q. And Statement Number 41 is next. Are you
17 there, ma'am?

18 A. I am.

19 Q. This statement was made at a gas station
20 after the alleged -- after essentially about 11:00
21 p.m. that night; correct?

22 A. Yes.

23 Q. And Michael Sutton and Leroy Vallejos,
24 though, were not together at the gas station
25 according to the statements; correct?

1 A. I believe they were.

2 Q. Let me rephrase that. They arrived in the
3 same vehicle; correct?

4 A. I believe so.

5 Q. And then they separated?

6 A. I don't know that.

7 Q. Okay. And who was this statement made to?

8 A. To Mr. Vallejos.

9 Q. But not in front of Mr. Sutton; correct?

10 A. I think he was in earshot.

11 Q. You think or you know?

12 A. I don't know.

13 Q. Because the statements imply that they were
14 not together; correct?

15 A. I disagree with that.

16 Q. Okay. Because Michael Sutton's first
17 statement doesn't even name Leroy Vallejos. He says
18 he was there with a friend.

19 A. Correct.

20 Q. And it's not until later on in the
21 investigation that they determine who the friend is?

22 A. Yes.

23 Q. Okay. Because Michael talks about walking
24 one place, and Leroy being -- his friend Leroy being
25 in another place; correct?

1 A. I don't remember that.

2 Q. Do you have any reason to disagree with
3 that? Actually, withdrawn.

4 Let me ask you this. Do you have any
5 reason to believe or do you have any notes from the
6 agents that said that this statement was made in
7 front of both individuals?

8 A. No, I don't have anything indicating that.

9 Q. And the reports don't indicate that, as
10 well; correct?

11 A. I'd have to reread them to be sure.

12 Q. Okay. You had the opportunity to review
13 the reports last night; correct?

14 A. Yes.

15 Q. Did you?

16 A. Yes.

17 Q. And do the reports say that the statement
18 was made to Leroy Vallejos and Michael Sutton, or do
19 the reports say they were made to Leroy Vallejos?

20 A. I believe they say the statements were made
21 to Leroy Vallejos.

22 Q. Okay. So Michael Sutton doesn't have any
23 personal knowledge of this statement?

24 A. I can't say that he does.

25 Q. Okay. And they mentioned cleaning up in

1 this statement; correct?

2 A. They do.

3 Q. What is your understanding of what they
4 were attempting to clean up?

5 A. The homicide.

6 Q. Do you have any specific understanding of
7 what they were going to clean up?

8 A. I can speculate.

9 Q. That's what we're doing as to whether or
10 not -- what this statement is about; right?

11 A. Yes.

12 Q. Okay. Because we don't -- "clean up" by
13 itself is not an incriminating statement; right?

14 A. No.

15 Q. Okay. You're speculating and you're
16 determining that the cleaning up was in regards to
17 something; right?

18 A. Yes.

19 Q. What were you speculating that it was in
20 regards to?

21 A. The crime scene.

22 Q. Okay. Do you have any evidence to suggest
23 that they went back to Bernardo -- and I'm referring
24 to the crime scene as Bernardo because that's the
25 exit; correct?

1 A. That's where the body is found. I believe
2 the crime scene was at 4 Aaron Court.

3 Q. Okay. So they had to go clean up 4 Aaron
4 Court; correct?

5 A. Yes.

6 Q. And there was blood found at 4 Aaron Court;
7 correct?

8 A. There was.

9 Q. Okay. Was there any Adrian Burns' blood
10 found at 4 Aaron Court?

11 A. When State Police went in 2012, I don't
12 think they were looking for blood. So when --

13 Q. Okay. Excuse me. Go ahead.

14 A. So when the FBI returned I believe in 2016
15 they looked for blood then, and there was no blood
16 linking back to Adrian Burns.

17 Q. And they took I believe it's 40 samples out
18 of that house; correct?

19 A. I don't know the exact number, but it was a
20 lot.

21 Q. The one that sticks in my head is there's
22 at least the number 35, so there is more than that;
23 correct?

24 A. I don't know.

25 Q. Okay. And all of those samples had blood

1 on them; correct?

2 A. Suspected blood.

3 Q. Okay. Some of it was animal blood?

4 A. I don't know that for sure.

5 Q. Some of it was human blood?

6 A. I don't know that for sure.

7 Q. Okay. None of it was Adrian Burns' blood?

8 A. Correct.

9 Q. So that suggests that "clean up" doesn't
10 refer to Adrian Burns' blood; correct?

11 A. Not necessarily.

12 Q. What does "clean up" refer to?

13 A. 4 Aaron Court in 2012, not 2016.

14 Q. They had this statement in 2012; correct?

15 A. Yes.

16 Q. And their interpretation of that statement
17 didn't lead them to believe that there was blood at 4
18 Aaron Court; right?

19 A. I believe so.

20 Q. So that's your interpretation that has led
21 to no blood on 35-plus samples at 4 Aaron Court?

22 A. Correct.

23 Q. New Mexico State Police in 2012 also looked
24 at some other things that they believed "clean up"
25 might have referred to; correct?

1 A. What do you mean?

2 Q. They tested essentially the truck blood
3 samples found in the truck in 2013, early '13;
4 correct?

5 A. Yes.

6 Q. And there was no Adrian Burns' blood found
7 on those; correct?

8 A. Correct.

9 Q. Let me move to Statement 42. Statement 42
10 is essentially two statements, correct?

11 A. Yes.

12 Q. And those two statements are -- the first
13 one would be Joe and Andrew Gallegos were covered in
14 blood and advised they were cleaning the house. That
15 statement was made to who?

16 A. I believe that was Daniel Orndorff.

17 Q. Correct. And not only Daniel Orndorff;
18 correct?

19 A. Yes.

20 Q. And he was advised why they were covered in
21 blood; correct?

22 A. I don't know that the Gallegos brothers
23 told him. He was aware they had a matanza in the
24 previous days.

25 Q. And their clothes actually were seized that

1 were covered in blood; right?

2 A. I don't remember that.

3 Q. At the hotel on November 20, blue sweat
4 pants?

5 A. There was some clothes with suspected blood
6 on it. I'm not sure that that's what they were
7 wearing.

8 Q. Didn't that blood come back as animal
9 blood?

10 A. I don't remember that.

11 Q. Joe Gallegos -- and this is once again
12 Statement 42, the second half. "Joe Gallegos later
13 went by Leroy Vallejos' house and tried to give
14 Vallejos his and Andrew Gallegos' truck." What truck
15 was this?

16 A. Just a moment. It doesn't specify.

17 Q. Do we know what truck this was?

18 A. I don't.

19 Q. Okay. So the only thing we know is what
20 Leroy states; right?

21 A. Yes.

22 Q. And there was essentially three trucks that
23 were recovered at Joe Gallegos' house?

24 A. That sounds right.

25 Q. Okay. Were there any trucks of Joe

1 Gallegos' that were recovered at Leroy Vallejos'
2 house?

3 A. I don't think so.

4 Q. Do Joe and Andrew have a truck that is
5 registered together?

6 A. I don't think they do.

7 Q. Okay. There is nothing to corroborate
8 Leroy Vallejos' statement; correct?

9 A. I don't think so.

10 Q. Okay. Let me direct you to Statement 43.
11 Did you review this statement last night?

12 A. I did.

13 Q. And do you have an opinion as to which of
14 the brothers made this statement?

15 A. An opinion?

16 Q. Does Charlene -- is this statement
17 attributable to one person?

18 A. No.

19 Q. Okay. Did both brothers make the
20 statement?

21 A. I don't know.

22 Q. Okay. So who is the declarant of the
23 statement that they were going to get rid of the van
24 because the brothers were looking for it?

25 A. I can't say.

1 Q. Let me direct you to 43, Agent. When was
2 this statement made?

3 A. November, 20, 2012.

4 Q. When did Jason Van Veghel make this
5 statement?

6 A. You said 43?

7 Q. And I apologize. Let me, I guess, be a
8 little more pointed with my question. The statement
9 is alleged to have been made from Joe, when he asked
10 Jason Van Veghel to clean up the living room and pull
11 up the carpet in 2003 (sic). When did Jason Van
12 Veghel first make that statement?

13 A. To law enforcement?

14 Q. Yes.

15 A. 2015.

16 Q. And he had been interviewed prior to that;
17 correct?

18 A. Briefly.

19 Q. He had been interviewed by Agent Madrid for
20 a long time; correct?

21 A. I believe that's the interview I'm talking
22 about, 2015.

23 Q. He was interviewed, though, prior to that
24 statement to Agent Madrid; correct?

25 A. I believe so.

1 Q. And he never mentioned pulling up carpet?

2 A. No.

3 Q. Who else was at the house that day?

4 A. Which day?

5 Q. Actually -- thank you. There was another
6 individual that was at the house when the house was
7 raided; correct?

8 A. Which time?

9 Q. Thank you once again. November 15, 2012,
10 the New Mexico State Police went to 4 Aaron Court?

11 A. Yes.

12 Q. They located an individual there by the
13 name of Ms. Cartwright, Karen Cartwright?

14 A. Yes.

15 Q. And she is involved or was involved with
16 Jason Van Veghel; correct?

17 A. Correct.

18 Q. She was interviewed extensively at that
19 time; correct?

20 A. I believe so.

21 Q. She never mentions that there is an issue
22 with the carpet?

23 A. She did not.

24 Q. Okay. And she had had substantial contact
25 with Jason from the 12th to the 15th, when she was

1 interviewed?

2 A. I believe so.

3 Q. They were both living at 4 Aaron Court?

4 A. Yes.

5 Q. And that was never brought up as
6 something -- and Ms. Cartwright probably is described
7 as being very, very free with information when she's
8 interviewed; correct?

9 A. I don't know who would make that
10 description. I've never spoken with her, so I can't
11 agree to that.

12 Q. Correct. You've never spoken to her to
13 interview her; correct?

14 A. Correct.

15 Q. Have you spoken and interviewed Jason Van
16 Veghel?

17 A. I have not.

18 Q. Ms. Cartwright talks a lot, and about a lot
19 of things on that audio. And you're smiling, so I
20 think that's an agreement; correct?

21 A. I don't think I listened to all of it.

22 Q. Okay. There's essentially two audios that
23 are over two hours in length?

24 A. Okay.

25 Q. But when she's talking, she talks a lot;

1 correct?

2 A. Yes.

3 Q. And she provides a lot of information?

4 A. Yes.

5 Q. A lot of opinions?

6 A. Yes.

7 Q. Okay. And a lot of other extraneous
8 information?

9 A. Yes.

10 Q. And she didn't ever provide you information
11 regarding a carpet?

12 A. I don't think she did.

13 Q. And Statement 45 was provided to law
14 enforcement at the same time; correct?

15 A. No, I don't think so.

16 Q. When was Statement 45 first provided to law
17 enforcement.

18 A. Just a moment. April 8, 2016.

19 Q. Okay. So that statement wasn't provided at
20 the same time that Jason Van Veghel provided the
21 information about the carpet?

22 A. Correct.

23 Q. That was essentially a later piece of
24 information?

25 A. Yes.

1 Q. And that wasn't ever discussed or
2 interviewed or anything else in the prior
3 investigation by New Mexico State Police?

4 A. I don't think so.

5 Q. Okay. And 150 or so -- and correct me if
6 I've got the number wrong, but it was a huge amount
7 of people went out in the field and looked where
8 Jason Van Veghel said the keys and watch were thrown?

9 A. I don't know how many people went out
10 there.

11 Q. Have you reviewed that ROI?

12 A. What's an ROI?

13 Q. Special Agent Acee makes a report for that
14 search; correct?

15 A. Yes.

16 Q. And describes the number of people?

17 A. I don't remember seeing that report
18 recently.

19 Q. And describes a lot of quote, unquote, "not
20 just agents, but like volunteers and other people
21 that go out there and look in that field"?

22 A. Yes.

23 Q. And they don't find any watch and keys?

24 A. Correct.

25 Q. So there is no information to corroborate

1 that Jason Van Veghel ever saw this watch and keys
2 thrown?

3 A. Correct.

4 Q. And Jason Van Veghel is not what we would
5 refer to as probably a reliable source; right?

6 A. What do you mean?

7 Q. He's got convictions for his -- felony
8 convictions for theft?

9 A. Yes.

10 Q. He's got a lot of impeachable material.

11 A. He does.

12 Q. Okay. And he's not charged as an
13 individual in this case; correct?

14 A. Correct.

15 Q. And he was not charged as an individual in
16 the underlying murder -- state murder investigation?

17 A. Correct.

18 Q. Statement 46. This statement was -- this
19 statement is alleged to have been made on or about
20 November 13; correct?

21 A. Yes.

22 Q. Where was Jason Van Veghel living in 2012?

23 A. 4 Aaron Court.

24 Q. Where was he living on the 14th?

25 A. 4 Aaron Court.

1 Q. When did the police raid 4 Aaron Court?

2 A. I don't remember the date exactly.

3 Q. November 15, 2012, sound about right?

4 A. Yes.

5 Q. He was still living there; he had just gone
6 out when the police showed up?

7 A. Yes.

8 Q. Because Karen Cartwright was still there
9 when the police showed up?

10 A. Yes.

11 Q. And he was living at 4 Aaron Court with
12 Karen Cartwright?

13 A. Yes.

14 Q. So Jason Van Veghel -- the statement is Joe
15 Gallegos found out the police were coming to search
16 the house. And let me stop there. How did Joe
17 Gallegos find out that the police were coming to
18 search the house?

19 A. I believe I read a statement from Daniel
20 Orndorff that he heard the police were going over, so
21 he went to the Gallegos residence and forewarned
22 them.

23 Q. Okay. And that's not correct, though;
24 correct? The police didn't go on the 13th?

25 A. No.

1 Q. The police didn't go on the 14th?

2 A. No.

3 Q. Okay. So what guns and stolen goods were
4 given to Jason Van Veghel?

5 A. I don't know.

6 Q. What did Jason Van Veghel do with the
7 unknown stolen goods and guns?

8 A. He put them in a trailer that he would
9 sometimes reside at.

10 Q. Okay. Where is that?

11 A. I don't think he gave us that information.

12 Q. Did you ask?

13 A. I wasn't there. I don't know whether or
14 not they asked.

15 Q. And there have been a lot of guns in the
16 State Police investigation attributed to Joe
17 Gallegos; correct? Let me rephrase that. Joe
18 Gallegos -- and the Court asked this question: How
19 was the murder -- was it a shotgun or a .22? The one
20 opinion is that he was shot with a .22 long rifle,
21 rival, .22 caliber long rifle, rifle; correct?

22 A. Yes.

23 Q. And the State Police recovered two
24 different rifles that they tried to attribute to Joe
25 Gallegos; correct?

1 A. I believe so.

2 Q. Okay. And they were both ruled out, not
3 just unknown, but they were both determined not to
4 have fired the projectiles that killed Adrian Burns?

5 A. Yes.

6 Q. One was a Stevens, and one was a
7 prior-to-1946 -- some type of weapon?

8 A. I don't remember the make and models.

9 Q. But there's two?

10 A. Yes.

11 Q. And so we don't have any proof to suggest
12 that these guns existed?

13 A. The guns that were found?

14 Q. Any guns that attributable to Joe Gallegos;
15 correct?

16 A. Correct.

17 Q. Because the investigation has been wrong
18 two times?

19 A. Yes.

20 Q. Statement 47, Agent. And this is Santos
21 Gonzalez told Gomez, "You remember me?" And Santos
22 Gonzalez knew Jose Gomez; correct?

23 A. I believe so.

24 Q. Okay. They knew each other from Los Lunas?

25 A. I don't know where they knew each other

1 from.

2 Q. Okay. You've been to Los Lunas or Los
3 Chavez where Charlene Parker's house is; correct?

4 A. No.

5 Q. Okay. Are you aware of how far that house
6 is -- and Jose Gomez is at 4 Rosemary Court; correct?

7 A. I don't know that.

8 Q. And Joe Gallegos' house is at 4 Aaron Court
9 we've heard; right?

10 A. Yes.

11 Q. And you can walk from those three houses
12 within five minutes?

13 A. Yes.

14 Q. Okay. They are exceedingly close?

15 A. They are.

16 Q. And so Santos Gonzalez -- did he know Jose
17 Gomez?

18 A. I believe you just said he did.

19 Q. I'm, I guess, asking.

20 A. I don't know. I've never spoken to either.

21 Q. When was this statement made? To law
22 enforcement. Let me clarify.

23 A. February 27, 2016.

24 Q. And that was made to -- that's the first
25 half of that statement only, though; correct? Santos

1 Gonzalez told Gomez, "You remember me?"

2 A. Yes.

3 Q. That statement does not contain, "They then
4 told Gomez that Joe Gallegos put a hit out and they
5 were there to kill him"?

6 A. It does.

7 Q. Okay. And who was that made to?

8 A. To Jose Gomez.

9 Q. Who was the law enforcement official that
10 that was made to?

11 A. Deputy Otto King.

12 Q. And he was the primary investigator;
13 correct?

14 A. I believe so.

15 Q. Statement 48. Shauna Gutierrez did not go
16 to Charlene Parker-Johnson's house with the other
17 individuals, did she?

18 A. She did not.

19 Q. So the statement, "They didn't finish him
20 when Gomez ran away" couldn't have happened, did it?

21 A. What do you mean?

22 Q. Where was the statement made? At Charlene
23 Parker Johnson's house?

24 A. No.

25 Q. Shauna Gutierrez didn't know that Gomez ran

1 away, did she?

2 A. I believe she was informed by either Santos
3 Gonzalez, Brandy Rodriguez, or Paul Rivera.

4 Q. But she's not -- I mean, then she's telling
5 Brandy?

6 A. Yes.

7 Q. But Brandy knows that firsthand.

8 A. She does.

9 Q. So describe what you understand Statement
10 48 is?

11 A. Paul Rivera, Brandy Rodriguez, and Santos
12 Gonzalez finished assaulting Jose Gomez. They
13 returned to where Shauna Gutierrez is, and they relay
14 the events that occurred. In her response Shauna
15 Gutierrez says this: "They didn't finish him."

16 Q. And that's a question?

17 A. No.

18 Q. And that's a statement made on -- I guess
19 I'm not understanding how that's a statement that she
20 can make.

21 A. What do you mean?

22 Q. How can she make a statement to three
23 people who were there that she wasn't there? I
24 mean -- I'm sorry. I'm lost. How can she make that
25 statement?

1 A. In response to what she was told.

2 Q. Which would be a question, wouldn't it?

3 A. Not necessarily.

4 Q. For clarification, three people go, three
5 people come back and they tell Shauna Gutierrez, and
6 Shauna Gutierrez makes this statement based upon the
7 information they delivered to her.

8 A. Yes.

9 Q. And Brandy Rodriguez is the only person who
10 heard it?

11 A. As far as I know.

12 Q. Statement 49, Agent. The statement, I
13 understand, that's coming out of 49 should be that
14 Charlene Parker-Johnson should leave the house. But
15 what does that statement consist of? Because this
16 sounds like a summary, not a statement.

17 A. Charlene tells the FBI the following: The
18 men knocked on the door and asked for Gomez, who was
19 sleeping in the bedroom. The men told Charlene she
20 should leave the house. The men pushed past her and
21 went into Gomez' room. Charlene heard shouting and
22 then the sounds of a fight. Charlene said, "It was
23 the worst sound I've ever heard. They almost killed
24 him. It was terrible."

25 Q. What is the statement, though?

1 A. That is the statement she gave to us.

2 Q. Correct. That's a statement she gave to
3 you. But we're not -- we can't admit -- you can't
4 admit the statement that she gave to you. You have
5 to admit her words. What were her words?

6 A. The words I have is, "It was the worst
7 sound I've ever heard. They almost killed him. It
8 was terrible."

9 Q. Right. But that's not Statement 49.

10 A. Correct.

11 Q. Okay. What are the words that they -- and
12 my next question is going to be who. But what are
13 the words that they told Charlene Parker-Johnson?

14 A. They just told her she should leave the
15 house. She doesn't specify who said it.

16 Q. It wasn't asked -- no, no, no, and you're
17 moving on to question two. Question one is: What
18 was she told? Not the substance of what she
19 understood. She understood she should leave the
20 house; right?

21 A. Yes.

22 Q. What was she told?

23 A. I don't know.

24 Q. And who told her that?

25 A. I don't know.

1 Q. Statement 50 is, and it's in quotes, "So I
2 understand that he's running, he's getting away,"
3 were words that were expressed; correct?

4 A. Yes.

5 Q. Okay. But who said those?

6 A. Both Santos Gonzalez and Paul Rivera.

7 Q. Each said "He's running," and each said,
8 "He's getting away"?

9 A. Yes.

10 Q. Okay. And that's from Charlene
11 Parker-Johnson?

12 A. Yes.

13 Q. Did Charlene Parker-Johnson also repeat
14 what -- strike that.

15 Statement 50 -- I'm sorry, 51. That was
16 50. Statement 51 is once again a summary. What was
17 the statement that is summarized in 51?

18 A. Just a moment. There is no statement that
19 we took down.

20 Q. And you were asked on direct, I think, and
21 actually it was said on direct that this wasn't
22 related to Count 13, the assault in 2015; right?

23 A. Yes.

24 Q. And because there is no statement, we don't
25 know what murder charge they were referring to or

1 this summary refers to; right?

2 A. Correct.

3 Q. And Otto King's report summarizes that Jose
4 Gomez provided a very specific reason as to why he
5 was being attacked; correct?

6 A. Yes.

7 Q. And he tells a deputy that, and he tells
8 his mother, both, that he was being robbed and
9 attacked for money; right?

10 A. I don't remember seeing that.

11 Q. Okay. In his report to his mother it says,
12 "They came for my money"?

13 A. I can see if I have it here.

14 Q. Okay.

15 A. Give me a second. He does say they asked
16 him for money.

17 Q. And he's very specific about that they were
18 there for his money?

19 A. Well, he also says they were there to hit
20 him because he was going to testify against Joe
21 Gallegos.

22 Q. He says that?

23 A. Yes.

24 Q. And what was he going to testify against
25 Joe Gallegos for?

1 A. Joe Gallegos had actually assaulted Jose
2 Gomez the year prior. He had stabbed him. And Jose
3 Gomez had agreed to cooperate against Joe Gallegos
4 for that.

5 Q. You said on direct that this statement was
6 not in regards to Count 13, which is that alleged
7 assault?

8 A. What is Count 13?

9 Q. Count 13 is the alleged assault on Jose
10 Gomez with a deadly weapon in March of 2015.

11 A. I must have been mistaken.

12 Q. That was Randy Castellano's question to you
13 and you agreed.

14 A. So Count 13 is the 2015 assault?

15 Q. The 2015 assault.

16 A. Then I must have been mistaken.

17 Q. And so we're clear, you're saying that if
18 Jose Gomez said -- and his statement is they were
19 there -- and it's in quotes -- "my money"; correct?

20 A. Yes.

21 Q. But then you also believe that he was being
22 retaliated on for the assault in 2015?

23 A. Yes.

24 Q. And Jose Gomez and Joe Gallegos have a long
25 history; right? They live within probably -- is it

1 fair to say you could almost throw a football from
2 one house to the other house?

3 A. Yes.

4 Q. And Jose Gomez has asked Joe Gallegos to
5 kidnap him, is the statement that's in the discovery
6 at one point in time; right?

7 A. I'm not familiar with that statement.

8 Q. But they have a back-and-forth
9 relationship; right?

10 A. What do you mean by that?

11 Q. They know each other, they live in a small
12 town, and they have personal interaction?

13 A. Yes.

14 Q. Okay. And there is an audio from February
15 of 2016 that says, "Leave Jose Gomez alone"?

16 A. Which audio?

17 Q. There is a audio call, jail recording that
18 says, "Leave Jose Gomez alone," right?

19 A. Not that I'm aware of.

20 Q. Statement 52. "Upon learning where Gomez
21 was staying, Shauna Gutierrez, Brandy Rodriguez
22 agreed they needed to go after Gomez." That again is
23 a summary. What was the statement?

24 A. The only statement I have is Paul Rivera
25 says Shauna said that she had just learned where

1 Gomez was staying.

2 Q. So are you -- for 52, the only statement
3 that you believe was made is Brandy saying, "I know
4 where Jose Gomez was staying"?

5 A. It says that?

6 Q. That's what I'm asking. I'm trying to find
7 out -- 52 says, "Declarant Shauna Gutierrez and
8 Brandy Rodriguez; source Paul Rivera and Brandy
9 Rodriguez." So I'm trying to figure out what 52 is.

10 A. So Paul Rivera says Shauna said that she
11 had just learned where Gomez was staying. Shauna and
12 Rodriguez agreed they need to go after him. Shauna
13 asked Paul Rivera to assist and he agreed. That's
14 Paul Rivera's.

15 Q. Right. And so that doesn't -- Brandy
16 doesn't say that?

17 A. Give me a second. I'll find it.

18 Q. Okay.

19 A. "Brandy Rodriguez on February 27, 2016,
20 says she was at Shauna's residence, and Shauna showed
21 up and told her Tiny was at Charlene's residence, and
22 they needed to go get him. Rodriguez said she, Oso,
23 and Santos got into Shauna's truck. She said she
24 drove to Charlene's residence. Oso and Santos went
25 inside, and she went in the back and spoke with

1 Charlene."

2 Q. Okay. Once again, that's a summary. The
3 only thing we have is one specific statement;
4 correct?

5 A. I don't consider that a summary. Rodriguez
6 said "she said."

7 Q. But she said -- essentially it describes
8 what she's doing, not what she said. She got, "We
9 got -- we decided to go over to the house"; right?

10 A. No. She said Shauna told her she knew
11 where Tiny was, and they needed to go get him.

12 Q. And that statement comes from Shauna, not
13 from Brandy?

14 A. Brandy says she heard Shauna say that.

15 Q. Okay. And so who is the declarant of that
16 statement?

17 A. That would be Shauna.

18 Q. Not Brandy?

19 A. Correct.

20 Q. Okay. And so there is only one statement,
21 and that was the statement by Shauna?

22 A. Correct.

23 Q. Okay. And that statement was made to an
24 individual who is now cooperating; right?

25 A. Brandy?

1 Q. No, Paul.

2 A. That statement was made to both Brandy and
3 Paul.

4 Q. Statement 53. Did Paul Rivera make or tell
5 you that he made a statement?

6 A. Yes.

7 Q. And what was that?

8 A. Shauna asked Paul to assist, and he agreed.

9 Q. Okay. But nobody has ever said "I agreed";
10 right?

11 A. I don't know. Some people would.

12 Q. What did he say?

13 A. I don't know what his exact agreement was.

14 Q. Okay. Statement 54. Who is Ms. Rodriguez
15 referring to in this statement?

16 A. For jefe?

17 Q. Yes.

18 A. Gallegos.

19 Q. Why does she call Joe Gallegos her jefe?

20 A. They're both in the same street gang. I
21 think she considers him to be the leader of the gang.

22 Q. Or she considers him her adopted father, is
23 what she has said in the past, too; correct?

24 A. That's also possible.

25 Q. That one is in print. The leader of the

1 street gang is a theory?

2 A. It is.

3 Q. Statement 55. What did Santos Gonzalez
4 say? What was his statement?

5 A. I don't have his exact statements.

6 Q. Okay. In other words, we don't know what
7 he said?

8 A. Correct.

9 Q. Okay. Statement 56 has a summary that told
10 Shauna Gutierrez that they had completed their
11 mission. Who said that, and who said -- what did
12 they say?

13 A. Paul Rivera didn't clarify who said it.

14 Q. Did he say he said it?

15 A. No, he just said "they."

16 Q. So we don't have a declarant?

17 A. Well, we have one; we just don't know who.

18 Q. And our job is to attribute that statement,
19 a statement to an individual person; correct?

20 A. It is.

21 Q. Okay. And we don't know either of those
22 two parts.

23 A. Not at this time.

24 Q. How many times have you interviewed Paul
25 Rivera?

1 A. Once or twice.

2 Q. At least two; right?

3 A. I think so.

4 Q. Shauna is attributed with saying she was
5 "happy to hear," and that's in quotes and then "Gomez
6 was likely dead" is not. A declarant is not listed
7 for Shauna. So who said that they were happy to hear
8 Gomez was likely dead?

9 A. Shauna Gutierrez said that.

10 Q. Okay. But per the table she's not listed,
11 right, as a declarant?

12 A. You're correct.

13 Q. Okay. She said, "Happy to hear," and
14 that's it, or we don't know what she said?

15 A. I don't know what she said after that.

16 Q. Okay. Statement 57. What did Shauna
17 Gutierrez tell Santos Gonzalez?

18 A. She instructed him to take the green truck
19 and park it at the trailer mentioned above; it
20 belonged to a Mexican national; and leave it there
21 for several days.

22 Q. And that sounds like an understanding or an
23 instruction. But what did she say?

24 A. I don't know.

25 Q. Okay. Was Paul Rivera present when that

1 instruction was given?

2 A. He was.

3 Q. And -- but during two interviews he was not
4 asked what she said?

5 A. No.

6 Q. Statement 58. This statement was given
7 when -- and more importantly, because I think the
8 answer is February 27, is what the chart says --
9 where was this given?

10 A. When was it given to law enforcement?

11 Q. No. When did Shauna say, "How come you
12 guys didn't do the job more fully?"

13 A. It was said by Shauna to Brandy Rodriguez
14 on the day of the assault.

15 Q. Right, but where?

16 A. Mr. Joe Gallegos' house.

17 Q. Which is the 4 Aaron Court?

18 A. Yes.

19 Q. And she said -- who is saying that she
20 said, "How come you guys didn't do the job more
21 fully?" Because that's in quotes. Both people are
22 saying that? Brandy and Paul?

23 A. Brandy Rodriguez says that.

24 Q. And those are the words that she said
25 Shauna used?

1 A. Yes.

2 Q. So she's the only one that says that; not
3 Paul?

4 A. I'm checking.

5 Q. Okay. I'm sorry.

6 A. I couldn't find where Paul Rivera says
7 that.

8 Q. So that statement is attributable to Brandy
9 Rodriguez only?

10 A. Yes.

11 Q. Statement 60. Brandy Rodriguez and Shauna
12 Gutierrez had people in place for an attack on Gomez.
13 And Mr. Castellano said that they were unclear about
14 when that statement was made; correct?

15 A. Yes.

16 Q. When does Mario say that statement was
17 made?

18 A. I didn't ask him.

19 Q. Okay. That's important; right?

20 A. It is.

21 Q. Okay. Because Brandy defined the two
22 groups -- or the two types of evidence that would
23 change if it was before or after the day of the
24 assaults; right?

25 A. Yes.

1 Q. How does he know that?

2 A. From what he told me, he was a go-between
3 for Joe Gallegos, Shauna Gutierrez, and Brandy
4 Rodriguez when Joe Gallegos was in county jail.

5 Q. Okay. When was that?

6 A. I didn't ask him.

7 Q. When was Joe Gallegos in county jail?

8 A. I don't know.

9 Q. And how does -- did you ask him how he
10 knows these people?

11 A. He's from that area. He used to sell drugs
12 in that area, as well.

13 Q. That's what he said?

14 A. Yes.

15 Q. Did you ask him how he knows Shauna,
16 Brandy, or Joe?

17 A. I didn't ask him that specifically, where
18 they met. He did tell me that one of the Gallegos
19 brothers actually brought him into the SNM.

20 Q. Well, but that's a very unspecific
21 reference, because there's five of them; right?

22 A. I said "Gallegos brothers" because I don't
23 remember if it was Joe or Andrew.

24 Q. Well, there is Frankie, Ben, Anthony, Joe?

25 A. Right. Mario Chavez -- I think he said Joe

1 initially. Then in the second interview he said
2 Andrew.

3 Q. Okay. Which was it?

4 A. Andrew.

5 Q. Brought him into the gang?

6 A. Yes.

7 Q. Not Joe?

8 A. Correct.

9 Q. Okay. And when and where did Andrew bring
10 him into the gang?

11 A. I don't think I have that 302. Sometime in
12 approximately 2013.

13 Q. Okay. And was he in custody or out of
14 custody when that happened?

15 A. He was out of custody.

16 Q. And we're referring to Mario Chavez?

17 A. Yes.

18 Q. And where was Andrew Gallegos at that time?

19 A. He was also out of custody.

20 Q. Now, when and where did he pass letters?

21 A. I didn't ask him specifically.

22 Q. Did you check the jail to find out if Mario
23 had visited Joe Gallegos?

24 A. I didn't.

25 Q. Okay. Besides taking Mario at his word,

1 what information did you do to corroborate this?

2 A. It was unrelated to the Gallegoses. He
3 told me someone had shown him a note about being in
4 charge. And I was able to track that down.

5 Q. "Track that down," what does that mean?

6 A. Location history wise, he said someone
7 specific either passed him a note or talked to him
8 saying he was in charge of a specific facility. We
9 were able to determine that he had given us the wrong
10 name, because gang members use similar monikers, so
11 we were able to corroborate his information once
12 we -- once we had the location history for the
13 specific gang monikers, we were able to ask Mario to
14 clarify, and he was able to.

15 Q. And that's related to a gang instance, but
16 that's not related to Joe or any information he
17 provided about Joe?

18 A. Correct. You asked me if I corroborated
19 anything. I did.

20 Q. Oh, and I apologize. I should have said
21 "regarding Joe."

22 A. No, I didn't.

23 Q. Okay. Because he states that he was taking
24 information and passing information to -- from Shauna
25 to Joe in 2014; correct?

1 A. I don't think he gave me a date.

2 Q. Okay. Can you look?

3 A. No, he didn't. He just told me when he met
4 Shauna, which was approximately 2014.

5 Q. And that statement, you're not saying,
6 sounds like, that's when Joe and Shauna were dating?

7 A. I'm not sure. Oh, you're correct. Yes.

8 Q. He says Joe and Shauna were dating in 2014?

9 A. Yes.

10 Q. Do you know when Joe and Shauna were
11 dating?

12 A. I don't know.

13 Q. Did you attempt to find that out?

14 A. I think the answer varies. I've heard they
15 were dating for a couple months starting in 2015.
16 But I've never confirmed that.

17 Q. Okay. So we have no -- we have information
18 that Mario Chavez gave you the name of a moniker, and
19 you believe that that moniker was referring to
20 somebody else and that reference was accurate, but we
21 don't know that?

22 A. No, I do know that. I confirmed that with
23 him.

24 Q. With him?

25 A. Yes.

1 Q. So you went back to confirm something with
2 him?

3 A. I did, yes.

4 Q. But you didn't confirm any of this
5 information regarding Joe?

6 A. No, I didn't.

7 Q. And you didn't confirm the information as
8 to whether this happened before or after the assault?

9 A. Correct.

10 Q. Okay. So we have -- we know you understand
11 how to corroborate information. This was a choice
12 not to corroborate the information.

13 A. Yes, I have limited time.

14 Q. I'm sorry?

15 A. I have limited time. I can't run
16 everything down.

17 Q. And I understand that completely. That's
18 my problem, too. But this statement is going to be
19 used against Mr. Gallegos; correct?

20 A. I don't know that.

21 Q. Well, what's the purpose of the statement?
22 It's to be used against --

23 A. I don't make those decisions.

24 Q. Okay. But --

25 MR. CASTELLANO: I'd object about the line

1 of questioning about corroboration. That would be a
2 proper subject for cross-examination at trial. And
3 the Court would give an instruction that the jury can
4 find someone guilty on the uncorroborated testimony
5 of a cooperator. So the corroboration or not really
6 isn't an issue here.

7 THE COURT: Well, I'm going to let Mr.
8 Benjamin explore. I'm trying to learn these
9 statements and the context of them. So I need to
10 know what we've got here. Overruled.

11 BY MR. BENJAMIN:

12 Q. Mario Chavez -- did he just -- you were
13 talking to him about some other information I think
14 initially; correct?

15 A. No, I don't think so.

16 Q. The purpose of your visit with Mario Chavez
17 was to find out what he knew about Joe Gallegos and
18 the attack on Tiny, Jose Gomez?

19 A. No, I think we approached him because he
20 had recently arrived in prison.

21 Q. Okay.

22 A. And he was claiming to be an SNM Gang
23 member.

24 Q. Okay. And it was just an exploratory
25 interview?

1 A. It was.

2 Q. Okay. And your ROI starts out, though,
3 with the information regarding Joe Gallegos; right?

4 A. An ROI --

5 Q. Sorry, your report of investigation, your
6 302.

7 A. Yes.

8 Q. And that then became important information;
9 right?

10 A. It did.

11 Q. And that was received in your first
12 interview with him?

13 A. Yes.

14 Q. And so the other -- the note that he --
15 you'd said he received a note from somebody that was
16 in charge of a facility?

17 A. Yes.

18 Q. And that was the name that you ran down?

19 A. Yes.

20 Q. And who was that?

21 A. Jeremiah Martinez. He referred to him as
22 Cyclone.

23 Q. And you ran that information down to
24 confirm that?

25 A. Yes.

1 Q. Because that was something that you deemed
2 was important; right?

3 A. Yes.

4 Q. And so did you deem this information not
5 important or --

6 A. No.

7 Q. Okay. We could have confirmed whether
8 Mario Chavez ever visited Joe Gallegos in jail?

9 A. We could.

10 Q. And we could confirm if he had sent him
11 letters when they were in jail; right?

12 A. I don't know that we could do that. Some
13 of the jails don't keep track of what goes in and
14 comes out.

15 Q. But we don't know what jail this is; right?

16 A. I think it was the Valencia County Jail.

17 Q. And have you done that with them to find
18 out if they would have been able to tell you if the
19 letter had gone in and out?

20 A. No.

21 Q. And how did Mario -- I think I've asked
22 when he learned this information. How did he learn
23 this information?

24 A. To my knowledge, he was hanging out with
25 Brandy and Shauna as a way to pass those messages.

1 Q. Brandy is dating -- excuse me, Brandy is
2 Joe's essentially adopted or related family member,
3 or a close tie to Joe; correct?

4 A. Yes.

5 Q. Shauna, at some point in time, was dating
6 Joe Gallegos; correct?

7 A. Yes.

8 Q. Did you ever ask why they needed a third?

9 A. I think I did.

10 Q. What was that answer?

11 A. I don't have in it front of me so I may not
12 be entirely accurate.

13 Q. Okay.

14 A. I think they said they wanted to avoid any
15 scrutiny from others. He had passed letters from
16 other SNM members. And that's a common tactic that
17 they use.

18 Q. Well, but nobody was concerned with the
19 SNM; right?

20 A. I don't know that that's true.

21 Q. Okay. Did Valencia County list Joe
22 Gallegos as an SNM member that needed to be -- and
23 they have a segregation list at most jails; right?

24 A. I'm sure they do.

25 Q. Okay. Was there anything to indicate that

1 Mario Chavez was needed because Brandy or Shauna were
2 not allowed to visit Joe at Valencia County?

3 A. I never looked, so I couldn't tell you.

4 Q. I apologize, I skipped Statement 59 by
5 accident. Let me ask you just to refer to the one
6 right above that. Statement 59 was made at Charlene
7 Parker-Johnson's house?

8 A. Yes.

9 Q. That's in the report?

10 A. Yes.

11 Q. And forgive me. When I say that's in the
12 report and you're referring to something, we're
13 talking about the report by deputy -- I think it's
14 deputy, but Otto King, the investigator, correct?
15 The Valencia --

16 A. No, I'm talking about the FBI report.

17 Q. Okay. Where did they get that information?

18 A. "They" meaning?

19 Q. The FBI report.

20 A. We spoke with Paul Rivera.

21 Q. Okay. Is "don't testify" a statement that
22 was made on the day of February 27, 2016?

23 A. Yes.

24 Q. Is that in Otto King's report?

25 A. I don't think so.

1 Q. What do we have to tell us if that
2 statement was made on February 27?

3 A. Paul Rivera's statement.

4 Q. That was given when?

5 A. September 16, 2016.

6 Q. When he decided to start cooperating?

7 A. Yes.

8 Q. Okay. Now earlier I asked you, in
9 Statement 47, whether there was any information in
10 the report. And I think I made a mistake, because
11 we're talking about different reports. In Otto
12 King's report, does it say that Joe Gallegos put a
13 hit out on him?

14 A. Otto King's report?

15 Q. Yes.

16 A. Yes, it does.

17 Q. So we're talking about two different
18 reports; right?

19 A. Yes.

20 Q. Okay. One of which was created at the
21 scene, and one of which was created essentially six
22 to eight months later or so; depending on the math,
23 from March to September, I guess that's six months?

24 A. One wasn't at the scene. It was at the
25 hospital.

1 Q. Okay. "The day of," is that better?

2 A. Yes.

3 Q. Okay. I think that would take us to
4 Statement 61. Joe Gallegos ordered the hit on Gomez,
5 and Shauna Gutierrez planned the hit. And this is
6 Brandy Rodriguez that we were told was the declarant,
7 not Shauna Gutierrez; correct?

8 A. Correct.

9 Q. How did Joe order the hit?

10 A. I don't know.

11 Q. Did Mario tell you how?

12 A. He did not.

13 Q. Okay. And what was the statement that Joe
14 used to order the hit?

15 A. I don't know.

16 Q. Okay. And what was the statement of how
17 Shauna Gutierrez planned the hit?

18 A. I don't know.

19 Q. The next statement, if I could ask you,
20 Agent, is 69.

21 A. Okay.

22 Q. Statement 69 is -- this is a message from
23 Joe; correct?

24 A. Yes.

25 Q. And because that's in quotes, that's what

1 we're understanding was the actual statement?

2 A. Yes.

3 Q. Brandy Rodriguez never told you she said
4 that?

5 A. I don't think she did.

6 Q. Okay. Statement 70. This statement was
7 made after Paul Rivera had started cooperating with
8 the Government; correct?

9 A. Yes.

10 Q. Okay. And during your conversations with
11 cooperators generally, I assume you tell them that
12 what they tell you can provide a benefit to them?

13 A. I don't tell them that every time.

14 Q. Okay. Have you ever told them that?

15 A. Are we talking about Paul Rivera
16 specifically?

17 Q. I said generally, but let's talk about Paul
18 Rivera specifically. Did you talk to Paul Rivera?

19 A. I don't think I ever told him that anything
20 he told me would benefit him.

21 Q. Okay. Why was he speaking with the
22 Government, Paul Rivera?

23 A. I think on this specific instance I went up
24 to PNM to just visit with the cooperators. I hadn't
25 met them, and I was new to the case.

1 Q. Okay.

2 A. So it was more like an introduction. And
3 since I had been at a previous debrief with Mr.
4 Rivera, he pulled me aside to give me this
5 information.

6 Q. This information?

7 A. Yes.

8 Q. Okay. And so this information wasn't
9 provided to you in a debrief. This information was
10 provided to you, just specifically to you at an
11 impromptu meeting?

12 A. Yes.

13 Q. And his words to you were Shauna said what?

14 A. "She's ride or die with Gallegos."

15 Q. Okay. And that is what he said, and the
16 interpretation then comes from that; correct?

17 A. Yes.

18 Q. Because that has no mention -- that is a
19 statement of loyalty, not a threat, right?

20 A. Correct.

21 Q. All right. And statement of loyalty is
22 about the relationship between Shauna and Joe?

23 A. Yes.

24 Q. And so there was no information in that
25 statement provided that they had put -- that Joe had

1 put a hit on Brandy Rodriguez?

2 A. He didn't give me her exact words, but he
3 relayed the content of the conversation.

4 Q. Okay.

5 A. And that included placing a hit on Brandy
6 Rodriguez.

7 Q. And how was that hit placed?

8 A. I don't know.

9 Q. When was that hit placed?

10 A. I don't know.

11 Q. Do you have any information to believe that
12 hit on somebody that there is a lot of information
13 that refers to Joe as his daughter, was ever placed?

14 A. I don't.

15 Q. The answer is no; correct?

16 A. I don't know.

17 Q. But there is no information?

18 A. I can't say yes or no to that without going
19 out and looking for that.

20 Q. Have you gone out and looked for that?

21 A. No, we told Ms. Rodriguez that we thought
22 there might be a hit on her.

23 Q. Okay. And have you witnessed Ms. Rodriguez
24 when she was in the courtroom?

25 A. Yes.

1 Q. Waving at Joe?

2 A. Yes.

3 Q. Joe waving at her?

4 A. Yes.

5 Q. And this was over the course of essentially
6 probably almost a year; right?

7 A. Yes.

8 Q. Okay. Did anybody ever act like they
9 believed there was a hit on each other?

10 A. No. However, based on experience and
11 reports, the SNM play friendly with people they know
12 they're going to kill.

13 Q. We're talking about somebody -- we're not
14 talking about SNM. We're talking about somebody who
15 has lived in that person's house since they were 8;
16 correct?

17 A. Yes.

18 Q. And that is Brandy Rodriguez living in Joe
19 Gallegos' house; correct?

20 A. Correct.

21 Q. Okay. So there is no information and there
22 is actually information suggesting otherwise?

23 A. Yes.

24 MR. BENJAMIN: I think I'm done, Your
25 Honor. If I could just have a couple of seconds to

1 go back through.

2 THE COURT: You may.

3 MS. ARELLANES: Your Honor, I think Ms.
4 Gutierrez requires a break.

5 THE COURT: All right. Well, let's talk
6 about how we want to take a break. Do we want to
7 take a 15-minute break and then come back and take a
8 late lunch; go for a while and take a late lunch?
9 We're taking kind of an early odd break. Or do you
10 want to take your lunch break now and come back at
11 12:35, something like that? What do you want to do?
12 How many of you want to take a late lunch? How many
13 want to take a lunch break now. All right. Well,
14 that wins it, then.

15 All right. See you back -- not much voter
16 participation. It's good old America; right?

17 All right. We'll see you back about 12:35,
18 12:40 something like that.

19 (The Court stood in recess).

20 THE COURT: All right. Let's go on the
21 record. It looks to me like every defendant has at
22 least one attorney. So I think we're ready to go.

23 Mr. Benjamin, did you decide you were done?

24 MR. BENJAMIN: Yes, Your Honor, I'm done.

25 THE COURT: So Mr. Burke, are you going to

1 be next?

2 MR. BURKE: Yes, Your Honor. Thank you.

3 THE COURT: All right. Mr. Burke.

4 CROSS-EXAMINATION

5 BY MR. BURKE:

6 Q. Agent Stemo, how long have you been an FBI
7 agent?

8 A. A little under two years.

9 Q. A little under two years. And is this case
10 here what you've been spending most of your time on?

11 A. Yes.

12 Q. All right. And did you have any prior law
13 enforcement experience prior to joining the FBI?

14 A. No.

15 Q. When you joined this investigation, what
16 did you do to prepare for being a good investigator
17 on the case? What sorts of reports and interviews
18 did you do to get yourself up to speed?

19 A. I read the entire case file. I initially
20 sat in a lot of interviews and read those write-ups.

21 Q. When you read the entire case file, you
22 recognized that there had been prior FBI cases that
23 had morphed into, if that's the right phrase, the
24 current case?

25 A. I did not initially. This is, it was

1 dubbed Operation Atonement. There were other case
2 files that I didn't know of initially, and I can't
3 say I've read all of those.

4 Q. And you were present when Judge Browning
5 described his view of the case, that it was inspired
6 in many ways by the threats on Mr. Marcantel?

7 A. Yes.

8 MR. CASTELLANO: Objection, relevance, Your
9 Honor. This isn't regarding any James statements.

10 THE COURT: Well, let me see where he's
11 going. I'll give him a little leeway. Overruled.

12 MR. BURKE: Thank you.

13 BY MR. BURKE:

14 Q. So that was the instigating reason for the
15 investigation?

16 A. Yes.

17 Q. And then what you did, what the task force
18 did, was, they started looking, in addition to that,
19 at some homicides. For example, the first one would
20 have been the Javier Molina homicide, which was in
21 2014. Is that a fair assessment of how the
22 investigation went?

23 A. I don't know. I wasn't there for it, so I
24 don't know what they looked at first.

25 Q. When you joined the investigation, what was

1 the focus then?

2 A. When I got there, we were actually doing
3 more search and arrest warrants. I think we arrested
4 two or three people that were not charged in this
5 indictment.

6 Q. So were you working on this case shortly
7 before the first indictment?

8 A. No.

9 Q. You came onto the team after the first
10 indictment?

11 A. Yes.

12 Q. All right. Thank you. The primary case
13 agent -- is that Mr. Acee?

14 A. Yes.

15 Q. And who were some of the other FBI agents
16 who have worked on this case?

17 A. Joe Sainato and Thomas Neale.

18 Q. Thank you very much. Turning to the
19 outline, did you help prepare the outline?

20 A. I did not.

21 Q. Do you know if any FBI agents helped
22 prepare the outline?

23 A. I don't know.

24 Q. Not that you know of?

25 A. Correct.

1 Q. And then did you take a look at some files
2 last night in order to be prepared to testify here
3 today?

4 A. Yes.

5 Q. And you have a binder before you which is
6 what? What is that binder?

7 A. It contains different 302s, State Police
8 reports, and I think Valencia County reports
9 regarding statements made by different individuals.

10 Q. And were you attempting to gather in that
11 binder the reports that would be reflected in the
12 James outline, what I'm calling the James outline?

13 A. I didn't gather anything. It was provided
14 to me.

15 Q. No, were you looking for reports that would
16 assist you in testifying today?

17 A. Yes.

18 Q. And you knew you would be testifying about
19 this outline?

20 A. Yes.

21 Q. All right. Thank you. I'd like to go
22 through a few of them. It will take me just a bit.

23 Number 11. Leroy Lucero's statement. Do
24 you see that there?

25 A. I do.

1 Q. And is his nickname Smurf? Is that one of
2 his nicknames?

3 A. It is.

4 Q. And he was at one time a federal prisoner,
5 he was in the Bureau of Prisons?

6 A. He was.

7 Q. And did you go back and look at his
8 interview when he was at a BOP facility in
9 Pennsylvania?

10 A. Last night, or previously?

11 Q. At any time.

12 A. I have.

13 Q. And I believe he was at Lewisburg; is that
14 correct?

15 A. Yes.

16 Q. And was that the first time that Smurf
17 talked to federal agents?

18 A. I don't believe so.

19 Q. Do you know when the first time would have
20 been?

21 A. No.

22 Q. And Mr. Lucero is claiming that Angel Munoz
23 made statements to him; is that correct?

24 A. Yes.

25 Q. And he's deceased, isn't he?

1 A. Yes.

2 Q. All right. And then have you talked to him
3 yourself, Leroy Lucero?

4 A. Yes.

5 Q. How often?

6 A. I've spoken to him about five times.

7 Q. All right. And is he here in New Mexico?

8 A. Yes.

9 Q. In custody?

10 A. No, he's not.

11 Q. Is he on supervised release now?

12 A. I think he still might be.

13 Q. All right. And when was the last time you
14 talked to him?

15 A. About a week or so ago.

16 Q. Thank you very much. Let me ask you to
17 turn to Statement 13. That's a Lujan statement.

18 A. Okay.

19 Q. He made statements to you or your
20 colleagues that he met with Mr. Gallegos, Angel
21 DeLeon, and Kriminal; and that's Michael Jaramillo;
22 is that correct?

23 A. Yes.

24 Q. And where did that meeting take place?

25 A. The first time he made the statement?

1 Q. Yes. It was a bad question. Where did
2 Lujan say he met with those three people?

3 A. I believe he said it was in front of the
4 unit they resided in, P pod.

5 Q. And he was clear about that and who the
6 three people were?

7 A. Initially he misidentified Joe Gallegos as
8 Joe Castillo.

9 Q. All right. And then as far as Angel DeLeon
10 and Kriminal, Michael Jaramillo, he was clear about
11 that?

12 A. Yes. He did not identify Kriminal as
13 Michael Jaramillo.

14 Q. He just had the nickname?

15 A. Yes.

16 Q. And you subsequently tied that down to be
17 Michael Jaramillo?

18 A. Yes.

19 Q. And he made that same statement a couple of
20 other times?

21 A. He did.

22 Q. And those were the three people who Lujan
23 says were tasked with killing Pancho Castillo?

24 A. Yes.

25 Q. Let me ask you to turn to Statement 16.

1 That's a Frederico Munoz statement. Is he a
2 co-conspirator, then?

3 A. Yes, I believe he is.

4 Q. And has he been charged in this case?

5 A. He was charged under the RICO indictment.

6 Q. And including this particular murder?

7 A. I'm not sure. I'd have to look at the
8 overt acts for him.

9 Q. All right. Well, was there a separate
10 count designated for this as to Mr. Munoz?

11 A. I don't think there was.

12 Q. All right. Thank you. Let me ask you to
13 turn to Statement 19. Javier Alonso is talking about
14 Arturo Garcia and says that Arturo Garcia wrote to
15 Frankie Gonzalez that Brian and Raymond Rascon were
16 to take care of the next murder for SNM. Do you see
17 that there?

18 A. I do.

19 Q. Now, did Javier Alonso say that he saw the
20 letter; is that what he said?

21 A. Yes.

22 Q. And this was a letter supposedly written by
23 Arturo Garcia to Frankie Gonzalez?

24 A. Yes.

25 Q. And do you have that letter?

1 A. No.

2 Q. So Frankie Gonzalez is a co-conspirator?

3 A. Yes.

4 Q. And has he been charged?

5 A. He has not.

6 Q. All right. Turning to 20, this is another
7 Javier Alonso statement. And when did he talk to you
8 or your colleagues?

9 A. I believe the first meeting was in August
10 of 2017.

11 Q. So this was after he decided to be an
12 informant and enter into a plea agreement; is that
13 correct?

14 A. I think the first meeting was before he
15 pled guilty.

16 Q. Okay. Sort of a proffer?

17 A. Yes.

18 Q. And then he had subsequent meetings?

19 A. I think we met with him after he pled.

20 Q. All right. And so all of the information
21 in this statement, including 20, comes after he had
22 made his plea agreement or made a decision to reach a
23 plea agreement?

24 A. I believe so.

25 Q. All right. And he was very clear that Ben

1 Clark put him in charge of the killing?

2 A. Yes.

3 Q. All right. Thank you. Let me ask you to
4 turn to 21. This is the statement that Javier Alonso
5 says that he was talking to somebody at the door
6 between the blue pod and the green pod; is that
7 correct?

8 A. Yes.

9 Q. And he remembered, I believe, that Ernest
10 Earn Dog Viero had started some communication about
11 getting the job done or something like that?

12 A. Yes.

13 Q. But he does not know -- Javier Alonso does
14 not know who it was that actually told him to, in
15 effect, get moving?

16 A. Correct. He could not remember that
17 individual's name.

18 Q. All right. Is Ernest Guerrero a
19 co-conspirator?

20 A. Yes.

21 Q. Has he been charged?

22 A. He has not.

23 Q. Turning to 22, so what Alonso said in
24 conjunction with his plea agreement is he told Edward
25 Troup to help?

1 A. He did.

2 Q. Were his statements, Javier Alonso's
3 statements, recorded?

4 A. No.

5 Q. Turning to 23, Javier Alonso is talking
6 about the killing of Fred Sanchez, and he remembers
7 that both Rascons came to the cell?

8 A. He does.

9 Q. Now, are -- so they're co-conspirators,
10 Brian and Raymond?

11 A. Yes.

12 Q. And have they been charged?

13 A. No.

14 Q. Why not?

15 A. I don't know.

16 Q. Okay. That was before your involvement in
17 the case?

18 A. Yes.

19 Q. Have you met with them?

20 A. No, I haven't.

21 Q. Have any of your colleagues met with them?

22 A. I don't believe so.

23 Q. All right. Thank you.

24 Turning to 24. So in addition -- I take it
25 from this that in addition to coming into the cell,

1 the Rascon brothers were also assigned the job of
2 being lookouts.

3 A. Yes.

4 Q. Let's turn to 25. Javier Alonso recalls
5 that Edward Troup kissed him on the cheek and said he
6 was proud of him?

7 A. Yes.

8 Q. Where did that take place? Was that still
9 in the cell?

10 A. I could check, if you'd like.

11 Q. Absolutely.

12 A. It's unclear where it happened.

13 Q. Pardon?

14 A. It's unclear where it happened.

15 Q. He provided you no details regarding the
16 location as to that event or that statement?

17 A. Correct.

18 Q. Let me ask you to turn to 29. Ben Clark.
19 Now, in contrast to the Statement Number 13, where
20 Javier Alonso recalled that Ben Clark made the
21 assignment to him, here is a statement where the
22 assignment allegedly is to Alonso and Troup. Do you
23 see that there?

24 A. I do.

25 Q. When did Clark make that statement?

1 A. Just a moment.

2 MR. CASTELLANO: Just a point of
3 clarification. Does he mean that statement to law
4 enforcement or that statement to those individuals?

5 MR. BURKE: The statement to law
6 enforcement. Thank you.

7 A. He made that specific statement on April
8 12, 2016.

9 BY MR. BURKE:

10 Q. April 12, 2016?

11 A. Yes.

12 Q. That's when Ben Clark said that he assigned
13 the job to Alonso and Troup?

14 A. Yes, that's when he told law enforcement
15 that.

16 Q. Were you working on the task force and were
17 you present when Benjamin Clark entered his plea in
18 the United States District Court for the District of
19 New Mexico?

20 A. I don't think so.

21 Q. It's actually an exhibit. And were you
22 aware that when that happened, he gave no specific --
23 basically no specifics about the Freddie Sanchez
24 killing?

25 A. No, I wasn't present for that, nor have I

1 seen the plea agreement.

2 Q. Okay. Well, it's a matter of record. He
3 said all he did was pass the paperwork and everybody
4 knew what they had. He didn't make any assignments.
5 Does that surprise you?

6 A. No.

7 Q. And why doesn't it surprise you? Because
8 informants change their statements with some
9 frequency?

10 A. Partly that. Partly also because when they
11 plead guilty, the judge has them explain what they
12 did and sometimes they offer more detail than what's
13 on the paperwork.

14 Q. Okay. And if I were to represent to you
15 that I've read the entry of plea, the Rule 11
16 advisement, and there's no additional details, would
17 that surprise you?

18 A. No.

19 Q. Because informants do sort of add and
20 embellish later on after they enter their plea?

21 A. I don't agree with embellishment. It could
22 be that, but sometimes they remember more once you've
23 asked them questions and they have time to think
24 about it.

25 Q. All right. So when he's asked some

1 questions, such as: Do you remember giving an
2 assignment to anyone, questions like that, then they
3 may remember more details?

4 A. No, not necessarily.

5 Q. All right. Let me ask you to turn to 36.
6 And Mr. Benjamin did ask you about this. This is,
7 again, Smurf remembering things. So Smurf remembered
8 that four or five years after March 26, 2001, Joe
9 Gallegos talked to him about the 2001 homicides?

10 A. He remembered having that conversation and
11 he believed that conversation happened four to five
12 years after.

13 Q. Thank you. I'd now like you to turn to 37.
14 Lawrence Torres. His statement is that Edward Troup
15 was seated at a table on the second floor; is that
16 correct?

17 A. That's part of his statement.

18 Q. And Edward Troup says, "Don't come up.
19 This has nothing to do with you. Don't come up
20 here." Is that correct?

21 A. Yes.

22 Q. And so Edward Troup was really advising him
23 to steer clear of whatever might have been going on.
24 Is that -- according to Mr. Torres, is that the way
25 that happened?

1 A. I don't know what Mr. Torres understood
2 that to mean to him.

3 Q. Fair enough. Looking at 38, Lawrence
4 Torres remembers that Angel DeLeon had a scratch; is
5 that correct?

6 A. Yes.

7 Q. And Angel DeLeon has not been brought into
8 this case; he is still at large?

9 A. Correct.

10 Q. And turning to 39, Ben Clark is talking
11 about Kyle Dwyer. Do you see that there?

12 A. I do.

13 Q. He is deceased, is he not?

14 A. Yes.

15 Q. Mr. Dwyer. Then turning to 40, I believe
16 you said this on earlier examination, the Crazy Town
17 Roswell Gang provided the paperwork; is that right?

18 A. Yes.

19 Q. Now, that is sort of a feeder gang? Is
20 that --

21 A. There are SNM members who come from that
22 gang.

23 Q. And was the Crazy Town Roswell Gang -- were
24 they offended that one of their own turned into a
25 snitch, Mr. Castillo?

1 A. I don't know.

2 Q. What was the role of the Crazy Town Roswell
3 Gang besides -- why did they provide the paper to the
4 prison and the SNM?

5 A. I believe it's common practice for gang
6 members who acquire paperwork on other gang members
7 to provide that to the gang so they can clean their
8 own house.

9 Q. And was Javier Alonso -- was he from
10 Roswell?

11 A. I don't think he was.

12 Q. You don't think he was. Okay. Thank you.
13 Let me ask you to look at 62. Paperwork on Sanchez
14 was delivered from Arturo Garcia to Ben Clark
15 approving the murder, and that is a statement
16 attributed to these four people: Samuel Gonzalez,
17 John Montano, Javier Rubio, and Joe Cheech Martinez;
18 is that correct?

19 A. No.

20 Q. Please tell me what was wrong with that.

21 A. I don't believe Joe Martinez made that
22 statement.

23 Q. Okay. Samuel Gonzalez, John Montano, and
24 Javier Rubio did?

25 A. Yes.

1 Q. And at the time, Samuel Gonzalez and John
2 Montano were in the same pod; correct?

3 A. Yes.

4 Q. Are they co-conspirators?

5 A. They're not.

6 Q. And they've not been charged?

7 A. I take that back. They are
8 co-conspirators, but they have not been charged.

9 Q. All right. Did you get the impression that
10 this was an SNM pod, referring to the Freddie Sanchez
11 homicide?

12 A. Yes.

13 Q. And did you get the impression that
14 everybody except Castillo knew that Castillo was
15 going to be hit?

16 A. Frank Castillo?

17 Q. I'm sorry, Fred Sanchez. Thank you.

18 A. Can you repeat the question?

19 Q. Yes. On the 2007 homicide, Freddie
20 Sanchez, did you get the impression that everybody in
21 the pod knew about the hit except for the victim?

22 A. I think Freddie Sanchez knew he was green
23 lit.

24 Q. So basically everybody in the pod knew that
25 it was going to be a hit?

1 A. I don't know that everybody knew. But it
2 was common knowledge.

3 Q. And it was even common knowledge with the
4 staff, the COs all knew that he was going to be hit?

5 A. I believe the STIU unit had an awareness of
6 it. I don't know about all the COs.

7 Q. And in fact, STIU -- they were very
8 surprised that Sanchez was allowed to stay there.
9 And they were very upset when they came in after the
10 weekend and found that he was still there but he was
11 dead?

12 A. Yes, I think they put in a request to have
13 him moved.

14 Q. And that request was ignored?

15 A. I believe so.

16 Q. I see. Now, turning to 63, that's Samuel
17 Gonzales again. He apparently knew that Cheeky,
18 that's Raymond, and Coquito, that's Brian, they were
19 supposed to hit Sanchez?

20 A. Yes.

21 Q. And when did he say that?

22 A. One moment. He told that to law
23 enforcement on February 22, 2017.

24 Q. That's the first time that he spoke to law
25 enforcement?

1 A. I'm not sure. He was in the RPP Program,
2 so he spoke with STIU before.

3 Q. Okay. So because he went into the RPP
4 Program, part of that is that he must sort of give
5 statements about what his involvement in gangs had
6 been prior to going into RPP?

7 A. Or his knowledge of anything that's
8 occurred.

9 Q. All right. So he may have spoken to -- and
10 have you seen the reports that may have been
11 generated as a result of his acknowledgment or his
12 familiarity with gang activity?

13 A. I don't think I have.

14 Q. All right. But as far as your group, that
15 would have been February of 2017?

16 A. Yes.

17 Q. And were you in on that interview?

18 A. I was not.

19 Q. And have you ever met him?

20 A. I have not.

21 Q. And do you know the last time that he was
22 spoken to?

23 A. I believe he testified in the last trial.
24 Does that count?

25 Q. Okay. Let's turn to 65. John Montano

1 mentions, "They'd be messed up if the paperwork on
2 the guy I just got showed up. Ben Clark also sent
3 Arturo Garcia a list of names of people in the pod."

4 I think on an earlier examination you
5 referred to that as a roll call. Have you seen that
6 roll call?

7 A. No.

8 Q. You have not seen that letter?

9 A. No.

10 Q. That was not seized by STIU?

11 A. Not that I know of.

12 Q. Do you know when Ben Clark was in that pod?

13 A. June 27? No. June 28, 2007.

14 Q. Okay. And was he -- as far as you know,
15 was he -- I'm not going to do that. Did you know
16 that he was moved before the homicide?

17 A. I did.

18 Q. All right. Do you know how long before the
19 homicide he was moved?

20 A. It was a day or two before.

21 Q. Was he moved before Sanchez showed up at
22 the blue pod?

23 A. I don't think so.

24 Q. So you believe that he was there when
25 Sanchez showed up?

1 A. I believe so.

2 Q. Let me ask you to turn to 66. Montano
3 has -- well, were you present during any of the
4 Montano debriefings?

5 A. I was.

6 Q. And he has told you that Edward Troup and
7 Javier Alonso attempted to hide in his cell?

8 A. Yes.

9 Q. And is this where you're going to interview
10 him some more and see if he remembers anything more?

11 A. No. I believe it was on my first encounter
12 with him.

13 Q. He said that?

14 A. I can check. Give me a second.

15 Q. Please do.

16 A. What was the question again?

17 Q. The question was: When you heard during
18 the debriefing of John Montano that they were hiding
19 or attempting to hide in his cell, did you ask him
20 about anything else he might have remembered or any
21 statements that he might have heard during that
22 rather odd activity?

23 A. No, we didn't get into specifics on that
24 encounter.

25 Q. And was that the first time that he was

1 interviewed, as far as you know?

2 A. By the FBI?

3 Q. Yes.

4 A. Yes.

5 Q. And have you seen any STIU interviews or
6 any other interviews by state law enforcement of Mr.
7 Montano?

8 A. Not that I can recall.

9 Q. All right. Thank you. I'd like you to
10 turn to 73. Ruben Hernandez. And this is -- in the
11 document the declarant is an and/or, Edward Troup
12 and/or Jesse Trujillo. When was Ruben Hernandez
13 first interviewed or when was the first time that
14 Ruben Hernandez gave a statement to either the FBI or
15 state authorities?

16 A. I think the first time he actually wrote a
17 letter to the prison administration. The date that I
18 have on the memo, because his letter is undated, is
19 July 11, 2007.

20 Q. July 11, 2007, he wrote a letter to state
21 authorities regarding what he remembered about the
22 Freddie Sanchez homicide; is that correct?

23 A. Yes.

24 Q. And you've read the letter?

25 A. I've read a transcript. It's a little hard

1 to understand.

2 Q. I understand. Would you take a look at it
3 now, and see if you agree with me that when he wrote
4 out that statement, it says that he ordered Jesse
5 Trujillo to cover the cameras?

6 A. "He" being Ruben?

7 Q. Yes.

8 A. Just a moment.

9 Q. Thank you.

10 A. I don't see that it says Jesse ordered
11 Ruben to cover the cameras.

12 Q. And actually, Edward Troup is not mentioned
13 in that part of the statement about covering the
14 cameras. Isn't that true?

15 A. Correct.

16 Q. All right. And then turning to 75, Ruben
17 Hernandez again is communicating with Jesse Trujillo,
18 and Jesse Trujillo says, "Just stand there," and
19 apparently Ruben was using a crutch at the time?

20 A. Yes.

21 Q. All right. Did Ruben Hernandez say that he
22 put the wet toweling on the cameras?

23 A. He tries to.

24 Q. And then Trujillo ended up doing it?

25 A. Ruben couldn't do it quite as well as they

1 would have liked him to.

2 Q. So they were covering for each other, sort
3 of?

4 A. I would say Jesse Trujillo was covering for
5 Ruben.

6 Q. All right. When you read the letter that
7 Ruben Hernandez wrote shortly after the homicide to
8 the STIU, I think, did you see the part where the
9 upper tier was supposed to put cups on the cameras?

10 A. Yes.

11 Q. And something happened and they weren't
12 able to put the cups on the cameras?

13 A. Yes. I believe a CO found them.

14 Q. A CO found them, and that was the upper
15 tier, so the whole upper tier was involved in the
16 homicide?

17 A. I'm not sure.

18 Q. But the one -- when you've read about this,
19 the way they've expressed it is: The upper tier was
20 supposed to cover the cameras; right?

21 A. I don't remember that. I just remember
22 Ruben and Jesse Trujillo being involved with the
23 cameras.

24 Q. Do you remember the cups part?

25 A. I remember.

1 Q. They were supposed to, but they may not
2 have done it, the upper tier?

3 A. Yes.

4 Q. So they were co-conspirators, too?

5 A. Yes.

6 Q. And they weren't charged?

7 A. Correct.

8 Q. All right. Please turn to 77. Ruben
9 Hernandez, Kyle -- once again, that's a person who is
10 deceased; right?

11 A. Yes.

12 Q. But Kyle supposedly asked Ruben to take
13 something to Samuel Gonzales, and the paperwork was
14 skimpy or something? What was that about?

15 A. It was a piece of paper that was folded up.

16 Q. Do you know how that fits into this?

17 A. No.

18 Q. But that's not the paperwork that allowed
19 the green light, then?

20 A. Not that I know of.

21 Q. All right. And -- but supposedly Ruben,
22 you know, went upstairs, Kyle asked Ruben, so, yeah,
23 Ruben went up to Gumby's cell?

24 A. He did.

25 Q. And then turning to 79, this is Chicky, so

1 that's Raymond Rascon? He's cutting the sleeves off
2 it, and I believe you explained this, that's because
3 there was a concern that Chicky would have had
4 evidence such as DNA on his clothing?

5 A. I believe so.

6 Q. Turning to 81, it's Ruben talking to Brian
7 or Edward again, so we have the either/or. "First
8 thing in the morning we need you to move the body."
9 And actually, I believe it was Ruben and Brian Rascon
10 talking to each other, wasn't it? If you want to
11 look, that would be fine.

12 A. I believe he makes two statements that are
13 very similar, but he interchanges the names.

14 Q. All right. And we could look at his
15 written letter to see that?

16 A. Yes.

17 Q. Then he speaks only to Brian Rascon, and
18 said, "That's all we're asking," he told Ruben, when
19 he didn't want to clean the cell. "Just clean the
20 cell." And Ruben balked; is that right?

21 A. Right.

22 Q. And then in 84, again, Brian is telling
23 him, "Follow the order, Ruben," in effect?

24 A. Yes.

25 MR. BURKE: That's all I have, Your Honor.

1 Excuse me. Let me check with my co-counsel.

2 THE COURT: Certainly.

3 MR. BURKE: That's all I have.

4 THE COURT: Mr. Castle, do you want to go
5 next?

6 MR. CASTLE: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. CASTLE:

9 Q. Agent Stemo, you indicated earlier that
10 you've been an agent for two years; is that right?

11 A. A little under.

12 Q. A little under. And did you go to the
13 Academy for that, or sometime --

14 A. During that timeframe, yes.

15 Q. During that timeframe. And do you have a
16 particular specialty within the FBI?

17 A. No.

18 Q. I want to go through the statements like
19 the other attorneys did. Okay? But only certain
20 ones. First, if we could start with Statement Number
21 1. That's a statement where the person making the
22 statement is Leonard Lujan; is that right?

23 A. Correct.

24 Q. How many times have you personally talked
25 with Leonard Lujan?

1 A. About four.

2 Q. Were those in interview formats, or debrief
3 formats, or can you tell us a little bit about those?

4 A. I believe I was at two of his interviews;
5 and then other times we met for administrative
6 matters.

7 Q. So in what calendar years would those
8 interviews have been?

9 A. 2017. It could have been 2016, as well.

10 Q. During those interviews, were notes taken
11 or were they recorded?

12 A. Notes.

13 Q. Did you take the notes or someone else?

14 A. It must have been someone else. I wasn't
15 the lead on those.

16 Q. Okay. I want to show you one report. I
17 show you a report that begins at page 42995 Bates
18 stamp. Is that the report of one of the meetings
19 that you had with Mr. Lujan?

20 A. Yes.

21 Q. There should be some handwritten notes
22 somewhere concerning this meeting?

23 A. Yes.

24 Q. Was there a particular reason the interview
25 wasn't recorded?

1 A. It's not our practice to record interviews
2 with people that are cooperating, and we're not
3 required to do so by policy.

4 Q. Well, what's the purpose behind that
5 practice?

6 A. I don't know. I'm not a policy writer.

7 Q. So you don't have any personal preference
8 one way or the other?

9 A. No, not really.

10 Q. So you could have recorded your interview
11 with Mr. Lujan?

12 A. I could have.

13 Q. It's not policy not to record; is that
14 right?

15 A. It is policy that we obtain approvals
16 before that.

17 Q. And did you ever attempt to get any
18 approvals?

19 A. No.

20 Q. Or are you aware of any attempts to get
21 approvals?

22 A. No.

23 Q. So this interview is January 5, 2017. You
24 talked about another one. Was it before or after the
25 January 5 interview?

1 A. I'm not sure. I could have been mistaken
2 and only been at one.

3 Q. Well, tell us what you remember about the
4 two or one interviews.

5 A. I remember that interview. It was, I
6 think, in Bernalillo.

7 Q. And what about the second one you were
8 thinking about recalling a little bit earlier?

9 A. I think I was meeting with Leonard, and he
10 might have told me that he needed to speak with his
11 attorney regarding medical issues. It wasn't
12 anything substantive to the case.

13 Q. Well, would that have been medical issues
14 concerning his mental health?

15 A. I think he wanted, like, reading glasses
16 and a cane.

17 Q. That's a second date you're talking about
18 that happening?

19 A. I think so.

20 Q. I'm going to approach you again with a
21 report. Perhaps I need reading glasses. I will
22 search my computer instead of using my eyesight. I
23 should have showed you my computer. Do you have that
24 report with you?

25 A. I think I do.

1 Q. Okay. Wasn't it in that one report, in
2 that interview, that Mr. Lujan spoke of his medical
3 needs, and that would be at page 42606?

4 A. He talked about that.

5 Q. So there's two different times you're
6 talking to him; right?

7 A. Yes.

8 Q. And in one he -- you make this report and
9 he talks about his glasses; right?

10 A. Um-hum.

11 Q. Now, I want to talk about the second time
12 you talked to him.

13 A. Yes.

14 Q. What was the subject of that interview?

15 A. I think I was actually giving him money on
16 his commissary, and he told me about the medical
17 needs, again. It's not unusual for people to bring
18 up medical needs to us.

19 Q. Okay. So you were giving him money and he
20 was telling you about other things that he needed;
21 right?

22 A. He was telling me to tell his attorney to
23 relay that to the marshals.

24 Q. And did you do a report about the provision
25 of money to Mr. Lujan on that date?

1 A. No, but there are records of the request.

2 Q. And then you indicated there were a total
3 of five. What were the other three occasions that
4 you had contact with Mr. Lujan?

5 A. I estimated about five.

6 Q. Yes.

7 A. It would be for the same reason.

8 Q. So are these times where he'd call you or
9 you would go out to see him?

10 A. On one occasion I called him. I think he
11 was at Luna County at the time. The other times I
12 would go to the facility.

13 Q. Going back to Statement Number 1, did Mr.
14 Lujan indicate to you where this -- or is this from
15 an interview that you conducted of Mr. Lujan,
16 Statement Number 1?

17 A. No, this was led by Bryan Acee.

18 Q. So in your review of Mr. Acee's report, did
19 Mr. Lujan indicate where this conversation occurred?

20 A. The one in Statement 1?

21 Q. Yes.

22 A. All he says is, it occurred at Southern New
23 Mexico Correctional Facility.

24 Q. In the investigation, are you aware of
25 anyone who could corroborate that meeting?

1 A. With Mr. Garcia?

2 Q. Between Mr. Garcia and Mr. Lujan.

3 A. No.

4 Q. So there were no corrections officers that
5 saw the two of them discussing matters?

6 A. I haven't seen any reports of that.

7 Q. No other inmates that saw that happening?

8 A. Not that I'm aware of.

9 Q. And isn't that the same meeting that both
10 Statement Number 1, Statement Number 2, Statement
11 Number 3, and Statement Number 4 happened? Was it
12 all at the same meeting between Mr. Garcia and Mr.
13 Lujan?

14 A. I believe there were two meetings where
15 they discussed the pending hits.

16 Q. And I take it with regard to both of those
17 meetings, there's no other witnesses who saw or
18 recounted those meetings?

19 A. I believe Mr. Lujan made a statement that
20 one of the COs told him he had them on camera in the
21 rec yard. But I've never seen a report that
22 corroborates what Mr. Lujan was told.

23 Q. In fact, he said, I believe, that the
24 warden of the facility warden, Tafoya, said he had
25 videotape of that meeting and confronted Mr. Lujan

1 about that; is that right?

2 A. I think that's what I'm referring to.

3 Q. And did you ever find any reports about --
4 from Warden Tafoya or anyone saying that they had
5 videotape of the meeting between Billy Garcia and Mr.
6 Lujan?

7 A. No, I haven't.

8 Q. With regards to those meetings, essentially
9 what Mr. Lujan was saying is that Mr. Garcia made the
10 order to kill these two individuals; is that right?

11 A. Yes.

12 Q. Now I want to flip over a little bit to
13 Leroy Lucero. Do I have this right, that Mr. Lucero
14 is telling you the order came from a man by the name
15 of Angel Munoz?

16 A. From my understanding is, Mr. Garcia
17 approached Mr. Lucero --

18 Q. Hold on. I'm just asking that question.
19 Did he say the hit came from Angel Munoz?

20 A. No, he confirmed the hit with Angel Munoz.

21 Q. So the phone call with Angel Munoz happened
22 after Mr. Garcia entered into the unit?

23 A. I don't know when the phone call happened.

24 Q. But doesn't Mr. Lucero state the first time
25 he heard about the hit was when he made a phone call

1 and confirmed the hit with Angel Munoz?

2 A. I don't know that he says that.

3 Q. Well, does he indicate that the green light
4 was put on any of these individuals prior to ever
5 meeting with Mr. Garcia?

6 A. He didn't indicate that.

7 Q. Who is Alfred Lino Giron?

8 A. He's an SNM member, and he's an SNM leader.

9 Q. Was he the leader at Southern for a time
10 period prior to these murders?

11 A. He was.

12 Q. When he left the facility, who did he leave
13 in charge of the facility?

14 A. I'm not sure.

15 Q. Do you recall that he left Leroy Lucero in
16 charge of the facility?

17 A. I don't know that.

18 Q. In your view of the reports, had Mr. Giron
19 put a red light, meaning a stop, on the murder of
20 these two individuals?

21 A. He put a stop on all green lights.

22 Q. And after he left, do you know who took
23 charge of the facility.

24 A. I don't.

25 Q. You don't recall Leroy Lucero ever saying

1 that he took charge of the facility?

2 A. I don't.

3 Q. How many interviews did you do with Mr.
4 Lucero that you were present at?

5 A. One.

6 Q. I think you talked earlier about a
7 three-way call that was placed. Do you recall that?

8 A. Yes.

9 Q. And who was the -- tell us about that.
10 Tell us what happened.

11 A. Mr. Lucero could not remember which inmate
12 approached him, telling him he needed to make a
13 three-way call. He had an inmate call Angel Munoz,
14 as far as I know, and that's how that happened.

15 Q. So was it Mr. Lucero wanting to get a call
16 to Angel Munoz and using a third party?

17 A. Yes.

18 Q. And did he indicate why he used a third
19 party, instead of using his own phone privileges?

20 A. He did not. But I believe it was because
21 Angel Munoz was in custody at the time, as well.

22 Q. Do you recall that Angel Munoz was actually
23 on the streets at the time?

24 A. He could have been.

25 Q. Well, you can't call from one facility to

1 another prison?

2 A. Right.

3 Q. So does it make sense that it would have
4 been someone on the streets that they would have been
5 calling?

6 A. It's possible.

7 Q. Well, is there a possibility that Leroy
8 Lucero could have been placing a three-way call to an
9 inmate at the other prison in the New Mexico
10 Corrections Department?

11 A. It's not unheard of, where one inmate calls
12 a third party and then another inmate calls that same
13 third party or someone with them; they put the phones
14 on speaker and talk to each other that way.

15 Q. So I take it you didn't try to figure out
16 during your interview of Mr. Lucero the details of
17 that phone call?

18 A. No, we didn't ask enough questions about
19 that.

20 Q. So if I get this right, Mr. Lujan says that
21 the order came from Billy Garcia, and Mr. Lucero says
22 the order came from Angel Munoz. Do I have that
23 right?

24 A. No, Mr. Lucero confirms the hit with Angel
25 Munoz.

1 Q. And did Mr. Lujan indicate that the hit had
2 to be confirmed with Angel Munoz?

3 A. I don't think Mr. Lujan talks about Mr.
4 Munoz at all.

5 Q. Does he talk about Leroy Lucero at all?

6 A. No, I don't think he does.

7 Q. And does Leroy Lucero mention Mr. Lujan at
8 all?

9 A. I think he does. He did not believe that
10 Mr. Lujan was in a position to make decisions.

11 Q. So according to Mr. Lujan's story, the
12 conspiracy that was occurring didn't include Leroy
13 Lucero?

14 A. That's correct.

15 Q. And Leroy Lucero's story is that the
16 conspiracy he was part of didn't include Leonard
17 Lujan?

18 A. Correct. But Mr. Lucero also says that
19 Mr. Billy Garcia told him he didn't need him for
20 anything.

21 Q. I understand. That wasn't the question,
22 though, was it, Agent?

23 A. No, it wasn't.

24 Q. Let's go to Statement 6. In that, someone
25 indicated that Leonard Lujan talked to Eugene

1 Martinez and told him, "I'm telling you right now
2 where it's coming from and everything," referring to
3 Billy Garcia; is that right?

4 A. Yes.

5 Q. Now, when Leonard Lujan was interviewed,
6 did he ever say that he told Mr. Martinez where the
7 hit was coming from in any of his interviews?

8 A. I can check.

9 Q. And if so, tell us which ones.

10 A. He does say that.

11 Q. He does say that in which interview?

12 A. The September 12, 2007, interview.

13 Q. And what does he specifically say?

14 A. "So the next day I went to, hmm, to school,
15 to edu, the education building, and that's when I
16 spoke with Eugene Martinez. I took him around the,
17 the, the hallway to the other side where it's pretty
18 isolated, not too many people go back there. And I
19 told him what Wild Bill wanted to done, what Billy
20 Garcia wanted done. And I told him how, how he
21 wanted it done, and basically what time he wanted it
22 done, in the morning, you know."

23 Q. So you took from that that he said that
24 Billy Garcia made these specific orders, not just
25 that this is what the order was?

1 A. Yes.

2 Q. Were there any witnesses that corroborated
3 that meeting at the Southern Correctional Facility?

4 A. Aside from Eugene Martinez?

5 Q. Yes.

6 A. No.

7 Q. I guess what they're saying is: They went
8 to a remote area of the yard and had this
9 conversation, or behind one of the buildings; is that
10 right?

11 A. Yes.

12 Q. Were there any corrections officers who
13 said, "Hey, we saw this unusual meeting behind a
14 building; these two inmates alone were having a
15 meeting behind a building"? Did any of them say
16 that?

17 A. None that I'm aware of.

18 Q. Was Leonard Lujan a suspect from the early
19 days of the investigation into the murders of Garza
20 and Castillo?

21 A. I don't know, since I wasn't there for the
22 early parts of the investigation.

23 Q. Oh, I know, but you've reviewed the
24 reports; right?

25 A. Yes.

1 Q. And do you recall Mr. Lujan's name was
2 mentioned by various informants as to having been
3 involved?

4 A. It depends on which investigation you're
5 talking about. Are you talking about the New Mexico
6 State investigation?

7 Q. Yes.

8 A. No, it was not.

9 Q. It was not. And was Eugene Martinez?

10 A. He was.

11 Q. And yet no Corrections officer reported
12 having seen Eugene Martinez do something unusual and
13 having this meeting behind a building?

14 A. Not that I'm aware of.

15 Q. Let's go to Statement Number 11, if we
16 could. Earlier you indicated that Leroy Lucero had
17 confirmed with Angel Munoz the hit that Billy had
18 told him about; is that right?

19 A. Yes.

20 Q. And in this statement, Statement Number 11,
21 you say that Munoz -- I'm sorry, what's stated here
22 is that Leroy Lucero said that Munoz over the phone
23 said, "Something has to happen, carnal. Billy is on
24 his way."

25 A. Yes.

1 Q. So would this have happened before
2 Mr. Garcia was at Southern?

3 A. I don't know.

4 Q. What do you take from that statement?

5 A. I can infer that Mr. Garcia had not been at
6 Southern when the phone call happened.

7 Q. When did the conspiracy to kill these two
8 inmates start generally?

9 A. I'm not sure as to the date and time.

10 Q. Would it have been before Mr. Garcia ever
11 arrived at Southern New Mexico Correctional Facility?

12 A. Yes.

13 Q. So in this statement Leroy Lucero stated
14 that Angel Munoz said that several hits were supposed
15 to happen; is that right?

16 A. Yes.

17 Q. How many hits?

18 A. I don't know.

19 Q. I take it this is from your interview with
20 Mr. Lucero in 2017?

21 A. Just a moment. I'm not sure if that's what
22 he said in January 2018.

23 Q. Oh, it's January 2018. I'm sorry. You're
24 not sure what he said then?

25 A. No, I don't have the transcript.

1 Q. There is a transcript of that?

2 A. I believe there is.

3 Q. And so that would be an instance where it
4 was actually recorded?

5 A. Yes.

6 Q. So why did you record Mr. Lucero's
7 statement in 2018, but you're not recording Lujan's
8 statements when he made them?

9 A. I think we did it because we didn't want to
10 get anything wrong.

11 Q. Fair enough. And that wasn't a concern
12 when you were meeting with Mr. Lujan?

13 A. No, it wasn't.

14 Q. Statement 14, Billy Garcia wanted knowledge
15 of the plan kept to very few individuals. Does Mr.
16 Lujan say that was during the first meeting or the
17 second meeting?

18 A. I can check.

19 Q. Actually, I'll move on. It's probably not
20 relevant to these proceedings.

21 There was some indication that before
22 Mr. Garcia ever made it to the prison, that a person
23 by the name of Ernest Guerrero was supposed to bring
24 the message down of the murders?

25 A. Yes.

1 Q. So was this everyone at the facility, or
2 certain members of the SNM knew that these murders
3 were supposed to happen, but they were waiting for
4 word from someone to give blessing to these murders?

5 A. I don't know.

6 Q. Okay. Well, what's your understanding?

7 A. I believe there were green lights that
8 people were aware of. I don't know conclusively that
9 Frank Castillo, Rolando Garza were on that list.

10 Q. Did Ernest Guerrero ever go to Southern the
11 months before the murders here?

12 A. I don't know. I've never verified that.

13 Q. Have you or your colleagues interviewed Mr.
14 Guerrero?

15 A. I don't think we have.

16 Q. So would Mr. Guerrero be a co-conspirator,
17 as well?

18 A. Yes.

19 Q. And who gave him the orders to bring down
20 to Southern?

21 A. I don't know.

22 Q. Who told you that Mr. Guerrero was supposed
23 to have done that?

24 A. Mr. Lujan.

25 Q. How did he know about that?

1 A. Mr. Billy Garcia told him.

2 Q. So it was after the fact?

3 A. After which fact?

4 Q. After Mr. Guerrero was supposed to come
5 down and didn't come down, Mr. Garcia said something
6 to the effect of he should have come down and told
7 us?

8 A. Yes.

9 Q. So Mr. Guerrero -- according to at least
10 Leonard Lujan, Billy Garcia didn't know that Mr.
11 Guerrero hadn't made it to Southern?

12 A. I don't know that he did or did not make
13 it. What Mr. Lujan was told was that a message was
14 given to Mr. Guerrero, and he did not relay that
15 message to Mr. Lujan.

16 Q. Was there paperwork that was involved that
17 had to be shown to anyone for these murders to
18 happen?

19 A. Not that I'm aware of.

20 Q. Do you recall a witness by the name of
21 Jimmie Gordon?

22 A. Yes.

23 Q. And him talking about paperwork on the
24 murders being provided to Leroy Lucero?

25 A. I don't remember that.

1 Q. You're not familiar with his statements?

2 A. I remember generally he was asking for
3 information from the librarian.

4 Q. I think earlier today we heard that Jimmie
5 Gordon was a co-conspirator. Do you recall that?

6 A. Yes.

7 Q. What was his role?

8 A. He was in, like, a meeting with several SNM
9 members and they were discussing green lights.

10 Q. And who was at that meeting?

11 A. I don't know, off the top of my head.

12 Q. Leroy Lucero was one, though?

13 A. I don't know.

14 Q. But Mr. Garcia was not; do you recall that?

15 A. I don't know.

16 Q. So do you know the identities of any of the
17 people that were involved in this meeting?

18 A. No, not off the top of my head.

19 Q. Whoever they were, would they all be
20 co-conspirators?

21 A. I would assume so.

22 Q. So were they all participating in the
23 agreement to kill these two individuals?

24 A. I believe so.

25 Q. Including Mr. Gordon?

1 A. I don't think -- he's not an SNM member.
2 He was there because they were using him.

3 Q. So is it fair to call him a co-conspirator,
4 then? Is that the correct designation? Or a
5 witness?

6 A. Personally, I'd call him a witness.

7 Q. So he wasn't part of the agreement to kill?

8 A. No.

9 Q. Let's go to Statement Number 16. Freddie
10 Munoz said he was part of a committee that sanctioned
11 the hit. Do you know, did he indicate who was part
12 of the committee?

13 A. I think he has, but I don't remember who
14 was there.

15 Q. So I take it all the members of the
16 committee would be co-conspirators, as well?

17 A. Yes.

18 Q. Did he tell you how many people?

19 A. No.

20 Q. Did he tell you where this took place?

21 A. At PNM.

22 Q. Did he tell you where at PNM?

23 A. Not that I remember.

24 Q. Was Billy Garcia present during that
25 meeting, according to Freddie Munoz?

1 A. I don't know.

2 Q. So was this a statement that he relayed to
3 Mr. Garcia?

4 A. I don't know.

5 Q. Was Mr. Guerrero at that meeting?

6 A. I don't know.

7 Q. Are you familiar with an individual by the
8 name of Jake Armijo?

9 A. Yes.

10 Q. And in the investigation was there
11 information developed that Jake Armijo brought down
12 the hit order on these two individuals who were
13 murdered on March 26?

14 A. I think Mr. Lucero and Mr. Armijo had
15 confirmation, as well.

16 Q. So was Jake Armijo a co-conspirator on
17 these murders?

18 A. He could be.

19 Q. Did he ever admit to you that he brought
20 down information, or to your colleagues -- let me
21 start that over. Too many pronouns and mixed
22 metaphors there, whatever.

23 Did Jake Armijo ever indicate to you or any
24 of your colleagues that he participated in any
25 fashion in the murder of these two individuals?

1 A. No.

2 Q. I think you may have been asked this, but
3 I'm not sure. Was Frederico Munoz ever charged with
4 his participation in the murders of Garza and
5 Castillo?

6 A. I'm not sure. It could be an overt act for
7 his RICO indictment.

8 Q. And the members of the committee, whoever
9 they may be -- were they indicted?

10 A. I'm not sure.

11 Q. Have any of them been interviewed?

12 A. I'm not sure.

13 Q. Are you aware of any corroboration by
14 anybody, whether it be a corrections officer, STIU
15 officers, or other inmates that could corroborate
16 this statement here in Number 16?

17 A. None that I'm aware of.

18 Q. Let's go to Statement Number 30. This is a
19 statement that Eugene Martinez -- says Eugene
20 Martinez, I guess, overhears Leonard Lujan talking to
21 Willie Amador and Jesse Ibarra; is that correct?

22 A. I believe so.

23 Q. So where did that discussion happen?

24 A. Just a moment. I think Statement Number 30
25 is incorrect. What it actually says is, Lujan told

1 Martinez to tell SNM members Willie Amador and Jesse
2 Ibarra to handle that.

3 Q. I'm sorry, so it's Eugene Martinez who is
4 talking to Willie Amador and Jesse Ibarra?

5 A. No, it's Eugene Martinez talking to Leonard
6 Lujan.

7 Q. And he's relaying that he recruited Amador
8 and Ibarra to do the murders?

9 A. Essentially. He doesn't say it that way.

10 Q. Well, you said -- I'm trying to paraphrase.
11 Is that a fair characterization?

12 A. Yes.

13 Q. And so has anybody corroborated that Willie
14 Amador and Jesse Ibarra were part of this conspiracy?

15 A. No.

16 Q. Does Leonard Lujan say that happened in any
17 of his interviews?

18 A. I don't think he mentions Willie Amador or
19 Jesse Ibarra.

20 Q. So, again, we have an instance where Eugene
21 Martinez is talking about a conspiracy involving
22 Jesse Ibarra and Eugene Martinez, and Mr. Lujan is
23 talking about a conspiracy, and they're not included?

24 A. Correct.

25 Q. Would this have been the day of, the day

1 before the murders, or a week before?

2 A. The day before.

3 Q. So would this discussion have been behind
4 the building?

5 A. Martinez was walking back to his spot from
6 the visitation room, and they met behind the chapel.

7 Q. So is this a separate meeting than we
8 talked about earlier?

9 A. I don't know.

10 Q. 31 is a statement by Eugene Martinez
11 saying, "Christopher Chavez heard about the hit on
12 Garza and volunteered to participate." Where did
13 that conversation take place?

14 A. Just a moment. In the pod they resided in.
15 They didn't say where exactly.

16 Q. Did he say when?

17 A. March 25, 2001.

18 Q. And I take it Chavez did not tell Martinez
19 how he had heard about the hit?

20 A. No.

21 Q. Going to Number 32, so this is a statement
22 by Eugene Martinez saying that Willie Amador asked
23 Eugene to be the lookout during the Garza murder,
24 "and if something happens, you already know"; is that
25 right?

1 A. Yes.

2 Q. Was Eugene Martinez a lookout in the murder
3 or a participant in the murder?

4 A. He was both.

5 Q. To your knowledge, did Mr. Amador
6 participate in the murders?

7 A. No.

8 Q. And has Mr. Amador ever been interviewed?

9 A. No.

10 Q. Is he alive?

11 A. I take that back.

12 Q. I'm sorry?

13 A. I think he was interviewed by Corrections
14 staff or New Mexico State Police.

15 Q. Fair enough. Right in the beginning of the
16 case; right?

17 A. Yes. He was not interviewed by the FBI.
18 And he's deceased.

19 Q. And do you know when he died?

20 A. I don't remember the year off the top of my
21 head.

22 Q. Would it have been after the FBI started
23 investigating these 2001 murders?

24 A. Which time?

25 Q. Yeah. Well, fair enough point.

1 Number 33. This is a statement by Eugene
2 Martinez saying, "While strangling Garza, someone in
3 the room yelled 'Close the door'?"

4 A. Yes.

5 Q. So is Mr. Martinez -- where is Mr. Martinez
6 at the time that's happening? Is he in the cell? Is
7 he not?

8 A. He was not in the cell.

9 Q. Was he at the doorway watching?

10 A. He was at the entrance to the pod door.

11 Q. Okay. And so he says he doesn't know who
12 yelled it?

13 A. Correct.

14 Q. So at that point he doesn't know who the
15 participants are in the strangulation at all?

16 A. No, he knew. He saw people enter the cell.

17 Q. Okay. And then what does he say after
18 that? Did he participate in the murder other than
19 being at the pod door?

20 A. He goes in and offers assistance.

21 Q. And did he do more than offer the
22 assistance?

23 A. No, he helped.

24 Q. What did he say he did?

25 A. He entered the room and jumped onto Garza's

1 legs.

2 Q. And what were his words when he offered to
3 help?

4 A. I don't think he said anything.

5 Q. So he just participated, he jumped in?

6 A. Yes.

7 Q. Number 34 is a statement by Eugene where he
8 says that he was approached by Leonard Lujan and that
9 Leonard Lujan told him to go talk to Willie Amador
10 about the murders; is that right?

11 A. Yes.

12 Q. Is that also a statement -- well, did Mr.
13 Lujan say that happened?

14 A. No.

15 Q. Have you had an occasion to interview him
16 since Mr. Martinez made this statement?

17 A. I think we could have found the time.

18 Q. No, have you?

19 A. Have we? No.

20 Q. Let's go to 36. Have you participated in
21 an interview of Lawrence Torres?

22 A. Somewhat.

23 Q. If you could explain.

24 A. I met with him before. We've talked about
25 it briefly. But I wouldn't say I interviewed him

1 about it.

2 Q. Have you talked to him about the murders?

3 A. Yes.

4 Q. Did you talk to him about his mental
5 health?

6 A. No.

7 Q. Did he discuss his mental health?

8 A. No.

9 Q. Or his desire to testify?

10 A. He said he would testify.

11 Q. And while you were talking to him, did you
12 notice anything about his mental health?

13 A. I think he has, like, a kidney disease or
14 something similar to that, that's affecting his
15 physical abilities.

16 Q. Did he indicate that he participated in any
17 fashion in the murders?

18 A. No.

19 Q. Did he witness the murders?

20 A. He thinks he did, one of them.

21 Q. When you say he thinks he did, is he not
22 sure?

23 A. No, that's not it. He saw Angel DeLeon and
24 Edward Troup disassembling the laundry bag. He heard
25 a commotion and looked out. He saw Joe Gallegos and

1 Angel DeLeon enter Fred Castillo's cell. He saw them
2 enter the cell. He heard the struggle.

3 Q. So he doesn't think -- he actually is a
4 percipient witness?

5 A. Yes.

6 Q. And I think on this statement, it's how
7 long after the murders?

8 A. About two years.

9 Q. And does he say where that happened?

10 A. Where what happened?

11 Q. Where that discussion happened, the one
12 that's recounted in 36.

13 A. That's actually Leroy Lucero.

14 Q. Okay. Did Mr. Lucero recount where he had
15 this discussion with Mr. Gallegos?

16 A. Yes, at PNM.

17 Q. And I take it because you don't have source
18 here as Lawrence Torres, that Lawrence Torres has not
19 confirmed that happened?

20 A. Are we looking at the same statement?

21 Q. It says, "Lawrence Torres saw and was
22 concerned Torres might snitch." Well, I'll go on,
23 actually.

24 Number 38, if we could go to that.

25 Lawrence Torres. This is a statement by Lawrence

1 Torres; right?

2 A. Yes.

3 Q. Okay. I got one up right. So Lawrence
4 Torres made the statement when?

5 A. 2003.

6 Q. He indicated that Angel DeLeon had a
7 scratch on his finger; is that right?

8 A. Yes.

9 Q. Were there examinations done of all the
10 inmates after the murders?

11 A. I believe so.

12 Q. And was there -- have you seen any
13 photographs of these scratches on Mr. DeLeon's
14 finger?

15 A. No.

16 Q. Was there any female CO that said that she
17 had this --

18 A. Not that I'm aware of --

19 Q. -- discussion?

20 A. -- no.

21 Q. If you go to Statement Number 67. We're
22 getting towards the end.

23 A. Okay.

24 Q. Maybe if I just read it to you. The source
25 is Jimmie Gordon, the declarant is Jimmie Gordon, and

1 he said he asked to get information on Garza from
2 Geraldine Martinez?

3 A. Yes.

4 Q. Had Geraldine Martinez been interviewed by
5 you and your colleagues?

6 A. I don't think so.

7 Q. Was this printed information that they
8 wanted?

9 A. I believe so.

10 Q. And do you know when Jimmie Gordon was
11 asked to get that information on Garza in relation to
12 the murders?

13 A. No, I don't.

14 Q. And did he indicate who asked him to get
15 the information on Garza?

16 A. No.

17 Q. Do you recall him saying Leroy Lucero asked
18 him?

19 A. No, I don't.

20 Q. Let's go to 68. This is where Gerald
21 Archuleta says that he was going to have a shoot-out
22 apparently with Baby Zack, and Baby Zack wanted to
23 kill him; is that right?

24 A. Yes.

25 Q. And in the context of that, apparently,

1 according to Gerald Archuleta, Baby Zack says: "I'm
2 here to kill you because Billy Garcia told me to kill
3 you," something to that effect. Or tell us what he
4 said.

5 A. It's pretty lengthy.

6 Q. Okay. Maybe summarize for us. All I want
7 really is what Baby Zack's words are, because that's
8 what we're talking about, is his statements, Baby
9 Zack's statements.

10 A. Gerald did not tell us what Baby Zack
11 exactly told him.

12 Q. Okay. Did he summarize what Baby Zack told
13 him?

14 A. No, not really. All he said is, Well,
15 there's an issue between Billy Garcia and Gerald
16 Archuleta after the double murders involving Julian
17 Romero. They had a meeting where they couldn't
18 resolve the issue, and he says this: "The two men
19 did not resolve the dispute, and Billy Garcia would
20 rather send his nephew to try and kill Archuleta."

21 Q. Did he say how he knew that?

22 A. I don't think he did.

23 Q. So we don't know the source of that
24 information?

25 A. We might have it.

1 Q. Not from Mr. Archuleta?

2 A. Right.

3 Q. And I take it he's not saying that Baby
4 Zack walked up with a gun and said, "Hey, I'm here to
5 shoot you because there is that disagreement between
6 Julian Romero and Gerald Archuleta, and my cousin
7 sent me to murder you"? It wasn't anything like
8 that; right?

9 A. I don't think so.

10 Q. Did he say Billy Garcia told him -- did he
11 go up and say to Gerald Archuleta: I had a
12 conversation directly with Billy Garcia where he told
13 me to give these orders, or anything like that?

14 A. I don't think that's how that works.

15 Q. Okay. There was shooting and Gerald
16 Archuleta made some assumptions about why it
17 happened, based upon the relationship of Baby Zack
18 and Billy Garcia?

19 A. I think that's fair to say.

20 Q. Did that shooting have any relationship to
21 the 2001 murders?

22 A. It's my understanding part of the reason
23 the issue started was because Gerald Archuleta
24 disagreed with those green lights and those hits
25 being carried out.

1 Q. Because those were buddies of his of some
2 sort?

3 A. I think Frank Castillo and Rolando Garza
4 were regarded as good brothers.

5 Q. Did Gerald Archuleta ever indicate he
6 talked to Billy Garcia about this personally?

7 A. I think he has.

8 Q. Well, do you recall that Mr. Garcia went to
9 talk to Gerald Archuleta and told him not to try to
10 kill Julian Romero and to stop doing that kind of
11 conduct?

12 A. Yeah, I think that's the conversation I'm
13 talking about.

14 Q. They didn't have a sit-down conversation
15 about Baby Zack and what Baby Zack did --

16 A. No.

17 Q. -- or didn't do? I guess he never shot
18 Gerald Archuleta; right?

19 A. No. I think Gerald Archuleta shot Baby
20 Zack.

21 Q. You'd indicated at one point that Billy
22 Garcia had made a statement to Leonard Lujan that he
23 didn't want knowledge of the murders to be spread
24 around to other people essentially; is that right?

25 A. Yes.

1 Q. And then you indicated that you said that
2 was probably because Billy Garcia wanted no one to
3 know. Is that your interpretation, or is that
4 something that Mr. Lujan said?

5 A. I think that's my interpretation.

6 Q. Can you go back to Statement 36? This is
7 where Joe Gallegos or Leroy Lucero says Joe Gallegos
8 told him that Lawrence Torres saw him, and was
9 concerned Torres might snitch. Do you see that?

10 A. Yes.

11 Q. During that conversation between Leroy
12 Lucero and Joe Gallegos, did he mention Billy Garcia
13 at all?

14 A. No.

15 Q. And in regards to this entire chart of
16 statements, are we to assume that if Billy Garcia is
17 not mentioned in one of the blocks that -- during
18 that conversation that is being relayed in those
19 little blocks of information, that Billy Garcia's
20 name was not mentioned by the witness, by the
21 declarant or the source?

22 A. Not necessarily. Since I wasn't part of
23 making the chart, I can't 100 percent say yes or no
24 to that.

25 Q. Well, can you recall any statements by any

1 of the sources or the declarants in this chart where
2 they mention Billy Garcia that's not set forth in the
3 chart?

4 A. I think I can.

5 Q. Okay.

6 A. Let's see. The report that mentions
7 Frederico Munoz being part of the committee that
8 sanctioned Castillo and Garza. I think in that same
9 report he speaks with Billy Garcia, who confirms he
10 was part of it.

11 Q. That's a later interview; right? That's
12 something he said happened a few years after the 2001
13 murders?

14 A. Yes.

15 Q. That wouldn't be a co-conspirator
16 statement?

17 A. Well, he was part of the conspiracy in that
18 he ordered the green lights.

19 Q. Fair enough. So when Freddie Munoz is
20 relaying this, is he saying he and Billy Garcia are
21 having a discussion about how the hit went down, et
22 cetera? What were the circumstances? What I'm
23 trying to get at is whether it was a course or
24 furtherance of the conspiracy, was it part of the
25 conspiracy, that discussion between Mr. Munoz and

1 Mr. Garcia?

2 A. I would say they were just discussing the
3 conspiracy.

4 Q. So it wouldn't have been, "Hey, we need to
5 keep these witnesses quiet, or we need to do this,
6 that, or the other, to try to get away with the
7 murder"?

8 A. Well, we don't know the full extent of the
9 conversation.

10 Q. Well, we're here today to talk about it.
11 What's written in the report about the conversation
12 that allegedly happened between Frederico Munoz and
13 Billy Garcia after the 2001 murders?

14 A. Munoz had a personal conversation with
15 Billy Garcia after the hits on Garza and Castillo,
16 whereby Garcia admitted to the killings.

17 Q. Have you talked to Mr. Munoz?

18 A. Yes.

19 Q. On how many occasions?

20 A. A few, less than five.

21 Q. Okay. And were those formal interviews?

22 A. Yes.

23 Q. How many?

24 A. I couldn't give you an accurate number off
25 the top of my head.

1 Q. I mean, is it more than two?

2 A. Maybe two; it could be three.

3 Q. And in those interviews, did he expand at
4 all on the statement you just discussed concerning
5 Mr. Garcia and he?

6 A. Not the ones that I've been at.

7 Q. He's not a particularly shy guy about
8 talking about things, is he?

9 A. No.

10 Q. He's pretty loquacious?

11 A. Yes.

12 Q. And he didn't give you any more details
13 about this alleged discussion with Billy Garcia?

14 A. No, I don't think the interviews I was at
15 we were talking about Trial 2 defendants.

16 Q. Was he ever given one of those
17 questionnaires where you write --

18 A. Yes.

19 Q. I just want to make sure for the record we
20 understand what I'm talking about. It's probably,
21 whatever, 100 questions; is that right?

22 A. I think it's like 200.

23 Q. Okay, 200. And there's facts of the case
24 put into the body of the questionnaire?

25 A. The questions about facts of the case?

1 Q. Yes. Right. It's not just an open-ended
2 question like: What do you know about this murder?
3 It has more detail than that; is that right?

4 A. It does.

5 Q. And actually just as a kind of background
6 question, how many different witnesses were those
7 questionnaires provided to, just estimate?

8 A. More than 10, less than 25.

9 Q. And in Mr. Munoz' questionnaire, did he
10 provide any more details concerning this alleged
11 discussion with Mr. Billy Garcia, like where it
12 happened, where the discussion happened?

13 A. I'm not sure. I don't think I've read it
14 lately.

15 Q. Do you know -- I mean, you're the witness
16 here for that particular statement, so --

17 A. No, I don't.

18 Q. You don't know where it happened?

19 A. No.

20 Q. You don't know whether there were any
21 witnesses to it?

22 A. No.

23 MR. CASTLE: No other questions.

24 THE COURT: All right. Thank you, Mr.
25 Castle.

1 Any other cross-examination of Ms. Stemo?

2 Do you want to go, Ms. Torracco?

3 MR. SHATTUCK: We don't have any questions.

4 THE COURT: You don't have any? I'll tell
5 you what. Why don't y'all talk about who wants to go
6 next? Why don't we take our afternoon break and be
7 in recess till 2:30, and you can decide who is going
8 to question Ms. Stemo.

9 (The Court stood in recess.)

10 THE COURT: All right. Let's go back on
11 the record. I think every defendant has got an
12 attorney.

13 Mr. Granberg, were you going to go next?

14 MR. GRANBERG: Yes, Your Honor.

15 THE COURT: All right. Mr. Granberg.

16 Agent Stemo, I'll remind you you're still
17 under oath.

18 THE WITNESS: Yes, Your Honor. I'm ready.

19 CROSS-EXAMINATION

20 BY MR. GRANBERG:

21 Q. During Mr. Castellano's direct, you had
22 mentioned that the motives for Mr. Chavez
23 volunteering were effective shoes and withholding
24 heroin. Did I hear you correctly?

25 A. Yes.

1 Q. What are you basing that statement from?

2 A. So the withholding of heroin is something
3 Eugene Martinez told us. One second, I'll give you a
4 Bates number. So the Bates number for the shoes
5 incident is 32048.

6 Q. So there is a separate statement for the
7 withholding of heroin?

8 A. I believe so.

9 Q. Do you know the Bates number for that?

10 A. I'll find it.

11 Q. Okay.

12 A. 42802.

13 Q. Now, are you aware of any other statements
14 made regarding Mr. Chavez' motives for the murder?

15 A. Aside from those two?

16 Q. Aside from those two, or in addition to
17 those two?

18 A. No, I don't think so.

19 Q. Now, Statement 31 says Chavez heard about
20 the hit on Garza and volunteered to participate in
21 the operation. Did Chavez make a statement saying
22 that he wanted to join in? Or how is Statement 31 a
23 hearsay statement?

24 A. In both instances, Mr. Martinez just said
25 that Chavez volunteered upon hearing about the hit.

1 Q. And I'll backtrack. Bates No. 42082, is
2 that also Eugene Martinez?

3 A. Yes. And actually, Eugene Martinez says
4 Mr. Chavez overheard Mr. Martinez and Willie Amador
5 talk on the top tier. And that's when he volunteered
6 to conduct the hit.

7 Q. Okay. So would you agree with me that
8 those are personal reasons as opposed to, say,
9 carrying it out for the SNM?

10 A. I think it could be both.

11 Q. Okay.

12 A. You're not supposed to be disrespected as
13 an SNM member.

14 Q. Okay. Can you explain that? Can you
15 elaborate on that a little bit?

16 A. I don't think disrespect is looked upon in
17 the SNM as something that you can do. So even if
18 someone else from the gang disrespects you, you're
19 supposed to do something about it.

20 Q. Okay. Who is being disrespected in this
21 instance?

22 A. Well, Mr. Chavez was disrespected when
23 Mr. Garza took his shoes.

24 Q. Oh, I see. I see. I was thinking
25 something different. Let's jump to Statement Number

1 33. In Statement Number 33 there is a statement,
2 "Close the door," but the declarant could be either
3 Allen Patterson or Christopher Chavez. Was it both
4 of them, or was it just one of them?

5 A. I don't know.

6 Q. Okay. Were there any other sort of
7 debriefs or investigative statements that you've
8 uncovered that would sort of shed light on who it
9 would have been, Mr. Patterson, Mr. Chavez?

10 A. No.

11 Q. And I take your attention to Bates number
12 19128.

13 A. I don't have that with me.

14 Q. I was trying to put up on the screen Bates
15 No. 19128. Now, Agent Stemo, are you familiar with
16 this statement at all? Agent Stemo, why don't I just
17 bring my laptop up to you?

18 MR. GRANBERG: May I approach, Your Honor?

19 THE COURT: You may.

20 A. I think I have seen that before.

21 BY MR. GRANBERG:

22 Q. Are you familiar with the context this
23 statement was given in?

24 A. No.

25 Q. To your knowledge, do you know who Source 7

1 is?

2 A. Not I'm aware of.

3 Q. Okay. But in this document it states that
4 it was actually Patterson that said, "Close the
5 door"; correct?

6 A. Yes.

7 Q. So as far as you know, you have no idea who
8 Source 7 is?

9 A. I don't.

10 Q. You don't. All right.

11 So when you answered my question a few
12 minutes ago regarding who the actual declarant might
13 have been, were you aware of this statement?

14 A. It was familiar to me, yes.

15 Q. So now that you've had a chance to kind of
16 refresh your memory --

17 A. Um-hum.

18 Q. -- does that change your answer at all?

19 A. No, I don't think it does. We were
20 discussing what Eugene Martinez heard. I don't know
21 that Source 7 is Eugene Martinez.

22 Q. Is Source 7 a name or a designation that's
23 ever been assigned to Eugene Martinez?

24 A. I don't know that.

25 Q. Okay. So did Chavez indicate to Eugene

1 that he felt disrespected with regards to the shoes;
2 do you know?

3 A. I don't think Eugene told us that.

4 Q. How about in reference to the heroin?

5 A. I don't think Eugene told us that either.

6 Q. So if Eugene didn't tell you that, what's
7 your basis for your answer that the reason why he's
8 doing that is for being disrespected?

9 A. I think it's an inference. There's a
10 reason why Eugene Martinez brought those issues up
11 after he said -- after or before he said that
12 Mr. Chavez volunteered to conduct the hit.

13 Q. Okay. So getting back to Statement Number
14 33, so Eugene cannot 100 percent attribute who said
15 it; correct? "Close the door"?

16 A. Correct.

17 Q. Let's jump to Statement Number 71. I
18 believe that's another Chavez statement. Now, in
19 this particular instance the source is Leroy Lucero;
20 correct?

21 A. Yes.

22 Q. Is Leroy Lucero a co-conspirator, in your
23 opinion?

24 A. Yes.

25 Q. He is. Are you familiar with the term

1 "overt acts"?

2 A. Yes.

3 Q. In regard to conspiracies?

4 A. Yes.

5 Q. From your knowledge, what was Mr. Lucero's
6 overt act in the murder of Mr. Garza?

7 A. He confirmed the hit with Mr. Munoz.

8 Q. Did he order the hit?

9 A. I'm not aware that he did.

10 Q. Okay. So when you say "confirm, " what are
11 you -- can you elaborate on that particular point,
12 confirm?

13 A. He spoke with Mr. Munoz and received
14 information that both Mr. Frank Castillo and Mr.
15 Rolando Garza were, in fact, green lit.

16 Q. But it was also your testimony that it was
17 Mr. Garcia that ordered the hit; correct?

18 A. Yes.

19 Q. So how is it that both Mr. Garcia and Mr.
20 Munoz and Mr. Lucero had the same roles or
21 responsibilities here?

22 A. Mr. Lucero did not order the hit. I think
23 it's possible for more than one shot-caller to order
24 a hit. Mr. Munoz -- and this is speculation; I don't
25 know what transpired between Mr. Munoz or Mr. Garcia.

1 But Mr. Munoz could relay to Mr. Garcia who is a
2 shot-caller and was at Southern to carry out the hit.

3 Q. So you're saying Mr. Lucero's role as
4 purely a relay person is enough for --

5 A. I don't think he was a relay person.

6 Q. You just said he was possibly --

7 A. I think he confirmed the hit. And doing so
8 allowed for the hits to happen.

9 Q. So you're saying that he confirmed the hit
10 with Mr. Munoz, that the order came down from
11 Mr. Garcia?

12 A. No.

13 Q. Well, then, what is it you're saying?

14 A. I'm saying Mr. Lucero confirmed the hit
15 with Mr. Munoz. I don't know if Mr. Munoz also
16 issued an order for the hits. Because I don't know
17 what Mr. Munoz and Mr. Billy Garcia talked about.
18 What I'm saying is that it's possible for more than
19 one leader to order a hit.

20 Q. And did Mr. Lucero recently arrive at the
21 pod to relay this information?

22 A. No, Mr. Lucero was at Southern, and was due
23 to get released.

24 Q. Okay. Now, there have been numerous other
25 statements. Are you familiar with the term

1 "committee"?

2 A. Yes.

3 Q. And are you familiar with who are the
4 individuals selected to be on that committee in
5 reference to the SNM?

6 A. Well, it varies.

7 Q. Okay. Is there any reference to Mr. Chavez
8 being either on the committee or selected to be on
9 the committee, as far as you know?

10 A. No.

11 Q. What about Mr. Lucero?

12 A. I don't think I've seen anything that says
13 he was on the committee.

14 Q. And the persons that are on the committee
15 would have the sort of knowledge which could confirm
16 a hit or not; correct?

17 A. Yes.

18 MR. GRANBERG: Your Honor, I'll pass the
19 witness.

20 THE COURT: Thank you, Mr. Granberg.

21 Anyone else? Mr. Blackburn?

22 CROSS-EXAMINATION

23 BY MR. BLACKBURN:

24 Q. Ms. Stemo, I'm sorry, how long have you
25 been with the FBI?

1 A. A little under two years.

2 Q. And I know Mr. Castle asked you some
3 questions earlier about your specialties. Do you
4 have any specialties in the FBI?

5 A. No.

6 Q. Have you listed yourself as a profiler at
7 any time?

8 A. No.

9 Q. Have you ever placed any of that
10 information on a search warrant or anything
11 concerning your ability to profile individuals or to
12 be able to concentrate on basically what their
13 lifestyles may have been?

14 A. No.

15 Q. All right. So you're just a special agent,
16 a field person out doing investigations; is that what
17 it is?

18 A. Yes.

19 Q. Are there any specialties that you can get
20 when you're in the FBI?

21 A. I believe so.

22 Q. And what type would those be?

23 A. They could be like a special weapons and
24 tactics operator; you can be part of the evidence
25 response team. There's various trainings you could

1 get to become an expert.

2 Q. Okay. So I want to talk to you about Count
3 3, which is the Freddie Sanchez hit. When did that
4 occur?

5 A. 2007.

6 Q. All right. Do you remember what month in
7 2007?

8 A. June.

9 Q. And where did that occur at?

10 A. The Southern New Mexico Correctional
11 Facility.

12 Q. And what is your understanding of the
13 circumstances surrounding the initial conversation or
14 planning concerning that particular hit?

15 A. I believe there were rumors and paperwork
16 showing that Mr. Freddie Sanchez had cooperated with
17 law enforcement and that Mr. Benjamin Clark at one
18 point possessed that paperwork, and that had gotten
19 back to Arturo Garcia, who, in turn, relayed to Mr.
20 Benjamin Clark and Frank Gonzalez that the Rascon
21 brothers were to take care of the next thing that
22 happened. I don't think Mr. Garcia said what that
23 was specifically. But he said they were next.

24 Q. And at the time of the hit on Mr. Sanchez
25 in Southern New Mexico, where was Arturo Garcia at?

1 A. He was at PNM.

2 Q. How long had he been at PNM that you're
3 aware of?

4 A. I don't know.

5 Q. And where was Ben Clark?

6 A. He was at Southern New Mexico.

7 Q. And how long had Ben Clark been at Southern
8 New Mexico; do you recall?

9 A. I don't recall.

10 Q. Did you interview Ben Clark or sit in on
11 any of the interviews with him?

12 A. I don't think I did.

13 Q. Okay. As it relates to what you said, the
14 rumors about Freddie Sanchez, who was it that
15 informed you about those rumors, that there was some
16 type of law enforcement cooperation as it relates to
17 Mr. Sanchez?

18 A. I think I read that Mr. Ruben Hernandez was
19 aware. I believe John Montano was aware. Javier
20 Rubio had heard about the paperwork. Ben Clark.

21 Q. And going back, do each of those -- okay,
22 is it your understanding that they had been aware of
23 the paperwork prior to the hit that occurred in June
24 of 2007?

25 A. I don't know.

1 Q. Did Mr. Clark tell you that people
2 delivered the paperwork to Southern New Mexico in,
3 like, April of that year?

4 A. I'm not sure if he said April. Let me
5 check.

6 Q. Actually March or April.

7 A. Just a moment.

8 Q. Do you have 41974 in front of you, Bates
9 No.?

10 A. I do.

11 Q. Okay.

12 A. Thank you. You're correct, it says March
13 or April, 2007.

14 Q. So what you learned from this is that
15 individuals in SNM had been aware of some type of
16 paperwork that existed as to Freddie Sanchez; is that
17 correct?

18 A. Yes, I believe so.

19 Q. And I think that you covered some of this
20 with Mr. Burke earlier, but I just want to ask you
21 about this. When did Freddie Sanchez arrive at
22 Southern New Mexico?

23 A. I think it was June 15, 2007.

24 Q. And when he arrived, he told the
25 classification officers and other individuals there

1 at Southern New Mexico that he knew that there was a
2 hit out on him, didn't he?

3 A. He did.

4 Q. And he asked that he not be placed in a
5 certain pod if there was an SNM pod, and he not be
6 placed in that particular pod, did he not?

7 A. I believe so.

8 Q. And the classification person that was in
9 charge of that made a recommendation that he not be
10 placed in that pod, did he not?

11 A. I believe so.

12 Q. And when the classification officer came
13 back to work a few days later, he was somewhat
14 shocked that Mr. Sanchez had not been moved?

15 A. I believe so.

16 Q. But he himself, Freddie Sanchez, knew there
17 was a hit on him; right?

18 A. Yes.

19 Q. And what is your understanding from the
20 people that you interviewed about individuals that
21 have a hit on them as to how that hit is supposed to
22 take place? I mean, is that an open season if
23 somebody has a green light on them?

24 A. I think it depends who you talk to. Some
25 will say that you need confirmation from others.

1 Some will say that you need the actual paperwork.

2 Q. So depending on what day it is and who
3 you're talking to depends upon what the answer may be
4 to a certain extent?

5 A. Yes. The rules can be very fluid.

6 Q. Let me have you look at Statement Number
7 17, if you don't mind. Do you have that one?

8 A. I do.

9 Q. Okay. The declarant on this is Arturo
10 Garcia and the source is Eric Duran. And what is
11 your understanding about Statement Number 17 and how
12 that took place and the circumstances surrounding
13 that?

14 A. Eric Duran was housed with Arturo Garcia
15 and stated that --

16 Q. In Santa Fe; right?

17 A. Yes.

18 Q. At the North facility?

19 A. I don't know for sure.

20 Q. Go ahead. I'm sorry. I didn't mean to cut
21 you off.

22 A. He stated that Arturo Garcia gave the hit
23 to Benjamin Clark, and that Eric Duran was with
24 Mr. Garcia when the hit was put out.

25 Q. So what does Mr. Duran tell you about that?

1 Is he actually listening to him or -- let me back up.

2 Where is Mr. Clark at the time?

3 A. He's at Southern.

4 Q. So we're talking all the way across the
5 state; right?

6 A. Yes.

7 Q. So how was it that Eric Duran was aware
8 that Arturo was sending this to Ben Clark? What does
9 he tell you about that?

10 A. He doesn't say how the hit was put out.

11 Q. He just tells you that he's -- he says that
12 Arturo Garcia put the hit on Sanchez because he was
13 suspected to be cooperating with law enforcement; is
14 that correct?

15 A. Yes.

16 Q. And do you know, did Mr. Duran tell you
17 when he became aware of the statement?

18 A. I don't think he specifically says when it
19 occurred.

20 Q. And when did he tell you about this
21 particular statement?

22 A. This occurred on February 19, 2015.

23 Q. February 19, when?

24 A. 2015.

25 Q. All right. Have you seen a location

1 history for Mr. Duran?

2 A. I have not.

3 Q. Have you seen a location history for
4 Mr. Garcia, Arturo Garcia? I keep having to mention
5 that because of Billy Garcia.

6 A. I don't think I have.

7 Q. Let me ask you about Statement Number 18.
8 The source of this is Ruben Hernandez; correct?

9 A. Yes.

10 Q. And where was Ruben Hernandez at the time
11 of this hit on Freddie Sanchez?

12 A. He was also at Southern.

13 Q. And his comment is that Ben Clark passed
14 around paperwork on Sanchez' cooperation with the
15 police, stating that everyone needed to see it?

16 A. Yes.

17 Q. Did he say when he was aware of -- did
18 Hernandez tell you when he was aware of the
19 paperwork?

20 A. I don't think he did.

21 Q. How was it -- what is your understanding as
22 to where this paperwork came from?

23 A. From the Crazy Town Roswell Gang.

24 Q. And who obtained that paperwork?

25 A. I don't know.

1 Q. Do you know how it was obtained?

2 A. No.

3 Q. Have you ever seen any copies of that?

4 A. I have not.

5 Q. Are you aware of any of that paperwork
6 that's in the possession of the FBI or anything in
7 this case?

8 A. Not to my knowledge.

9 Q. And what did Ruben Hernandez state as to
10 stating everyone needs to see it and get rid of it?

11 A. What do you mean by that?

12 Q. I'm asking you. Statement Number 18 says
13 that everyone who needs to see it has seen it; get
14 rid of it. I'm just looking at Number 18. What did
15 Ruben Hernandez tell you about that?

16 A. Just a moment. Doesn't really elaborate
17 after that. He just says there were meetings after
18 Ben Clark said that.

19 Q. But it came from Ben Clark?

20 A. Yes.

21 Q. But there was a meeting afterwards,
22 basically?

23 Let me have you go over to Statement Number
24 19. The source on this was Javier Alonso. Now, at
25 the time of the hit on Mr. Sanchez, in June of 2007,

1 where was Mr. Alonso?

2 A. He was also at Southern.

3 Q. Have you interviewed him?

4 A. I was present for it.

5 Q. And the statement is that Arturo Garcia
6 wrote to Frankie Gonzalez that Brian and Raymond
7 Rascon were to take care of the next murder for SNM?

8 A. I don't think he said "murder." I think he
9 said "the next thing."

10 Q. Okay. That's what you were saying earlier,
11 okay. Now, did Mr. Alonso tell you that he actually
12 saw the paperwork?

13 A. I think he did.

14 Q. Okay. And has anybody ever been able to
15 describe to you what this paperwork actually says?

16 A. No, I don't know that we asked.

17 Q. Well, was the -- what was the paperwork?
18 Was it police reports, or was it something from
19 somebody saying: "This guy needs to be hit because
20 he was with the Crazy Towns, and he needed to be
21 taken out"? Or what is your understanding of, quote,
22 the paperwork?

23 A. I don't know what it is.

24 Q. No one ever explained that to you, or you
25 didn't hear that in any of the interviews?

1 A. No.

2 Q. How many pages it was, what did it look
3 like? Was it on blue paper or pink paper or white
4 paper, or anything like that?

5 A. No, I don't think so.

6 Q. Did anybody ever tell you what or who did
7 anything with the paperwork afterwards?

8 A. I believe that part, he gave it to Kyle
9 Dwyer and told him to get rid of it.

10 Q. Let me have you look at Statement Number
11 21, if you don't mind. Do you have it?

12 A. Yes.

13 Q. So we don't know who the declarant is in
14 this particular matter; right?

15 A. Correct.

16 Q. And where was -- when Javier Alonso hears
17 this statement, where was he at at the time that this
18 statement was made to him? Was he in the green pod
19 or was he in the blue pod?

20 A. I'm not sure of the coloring schemes. He
21 was in the pod that Fred Sanchez was in.

22 Q. And did the word come from the other pod?
23 I mean, this word is coming from another pod?

24 A. Yes.

25 Q. And he has no clue who was making these

1 statements and at what point in time?

2 A. Well, he says it happens before the murder.
3 He doesn't remember who it was that gave the message.

4 Q. Did he ever tell you who this may have come
5 from?

6 A. No.

7 Q. Let me go to Statement Number 27. The
8 source is Ben Clark and Eric Duran. Are these two
9 separate statements that individuals are making?
10 They were never together, were they?

11 A. I don't think they were together.

12 Q. We know that Eric Duran, at the time of the
13 hit, was in Santa Fe with Mr. Garcia; and Ben Clark
14 had already been down in Las Cruces; is that correct?
15 At Southern New Mexico; is that correct?

16 A. Yes.

17 Q. How was it that each of these individuals
18 said that Arturo Garcia sent word about Sanchez to
19 Ben Clark? How did they communicate?

20 A. You mean Ben Clark and Mr. Garcia?

21 Q. Yes.

22 A. Mr. Clark says that he and Arturo Garcia
23 would communicate via letters that they would send to
24 Mr. Garcia's wife.

25 Q. And how was that to occur? How did he say

1 that was to occur, that he would send them directly
2 to Mr. Garcia's wife?

3 A. I believe so.

4 Q. So do you have any of those letters at all?

5 A. We don't.

6 Q. You have no letters going from Mr. Clark to
7 Mr. Garcia, nor from Mr. Garcia to Mr. Clark, either
8 which way; right?

9 A. I think it's possible. I don't remember
10 off the top of my head. We do have some letters from
11 one inmate to another inmate. But I don't know if
12 it's the letters communicating that Freddie Sanchez
13 hit.

14 Q. And so you took care of Statement Number
15 28, when you're talking about -- is this how you're
16 saying that these letters were exchanged, and the
17 intermediary was supposedly Mr. Garcia's wife?

18 A. Yes.

19 Q. Do you know where she was living at the
20 time?

21 A. I don't.

22 Q. Let me go to Statement Number 39. Got it?

23 A. Yes.

24 Q. So the declarant in this matter is Kyle
25 Dwyer; right?

1 A. Yes.

2 Q. Was he an SNM member?

3 A. I think he is.

4 Q. And how do you know that?

5 A. I believe he's been validated by the New
6 Mexico Corrections Department.

7 Q. At the time, where was -- on the date in
8 question, in June 17, 2007, where was Mr. Dwyer?

9 A. I believe he was in the pod.

10 Q. In Santa Fe? I mean, in Las Cruces?

11 A. Yes.

12 Q. How long had he been there?

13 A. I'm not sure.

14 Q. Have you ever looked at his transfer papers
15 or anything?

16 A. I have not.

17 Q. And Mr. Dwyer is deceased; right?

18 A. Yes.

19 Q. And when did he die?

20 A. I'm not sure.

21 Q. Do you know what he died of?

22 A. I think he overdosed.

23 Q. Was that an overdose inside the facility or
24 outside the facility?

25 A. It was actually in a hotel or a motel in

1 Las Vegas.

2 Q. And the statement is: Kyle Dwyer came to
3 Southern New Mexico with the paperwork on Sanchez.
4 Are we talking about all the same paperwork, one,
5 two, or do we have any idea?

6 A. What do you mean?

7 Q. I don't know. You're the one talking
8 about -- you guys are talking about paperwork. Was
9 there just -- what was the paperwork that we're
10 talking about here?

11 A. I'm not sure.

12 Q. Was Ben Clark sure?

13 A. I'm not sure that we asked him.

14 Q. Let's go to Statement Number 40. As to the
15 paperwork that you didn't ask Mr. Clark about and we
16 don't know anything about much, that paperwork came
17 from Crazy Town Roswell Gang; is that correct?

18 A. Yes, that's what he said.

19 Q. And that's what Clark told you?

20 A. Yes.

21 Q. Did Clark say how he was aware that that
22 paperwork came from Crazy Town Roswell Gang?

23 A. He did not.

24 Q. I think you told Mr. Burke earlier this
25 morning that this had something to do with Crazy Town

1 Roswell Gang wanting SNM to clean up their mess,
2 meaning the Roswell messes. Would you explain that?

3 A. I don't think that's what I said.

4 Q. So I'll give you the opportunity to refresh
5 my memory.

6 A. I think it's common practice for gangs
7 to -- if they find out someone has cooperated and
8 they can get the paperwork on someone, even if it's
9 in a different gang, they'll provide that paperwork
10 to that individual's gang, so that they can clean
11 their own house.

12 Q. And that's what Ben Clark is telling you
13 that happened in this particular case? Or that's
14 just your impression or assumption of what they were
15 doing?

16 A. I think that's my impression.

17 Q. All right. Did any of the people you ever
18 interviewed indicate how the paperwork came from the
19 Crazy Town Roswell Gang, how they got possession of
20 it to give it to somebody to give it to somebody to
21 somehow pass it in the paperwork?

22 A. No, I don't think anyone has.

23 Q. Now, there was some mention at some point
24 in time about Cheech having been involved in this
25 paperwork being passed. Do you remember that?

1 A. I do.

2 Q. And who did you learn that from?

3 A. Just a moment.

4 Q. Sure. Did this come from Leroy Lucero?

5 A. I'm not sure. I don't think that's right,
6 though.

7 Q. I didn't mean to interrupt your search. I
8 was trying to help you. I'm looking at this in
9 connection with Statement 62 if that's going to help
10 you.

11 A. That would help. That was stated by Samuel
12 Gonzales.

13 Q. Samuel Gonzales is the one that said
14 that -- looking at 62, you have three people: Samuel
15 Gonzales, John Montano, and Javier Rubio. Can you
16 tell me what each of those basically stated as
17 relates to the paperwork delivered from Arturo Garcia
18 to Ben Clark?

19 A. Yes. Gonzales stated that "Cheech, Joe
20 Martinez, delivered the paperwork on Sanchez from
21 Arturo Garcia to Benjamin Clark, who approved the
22 murder."

23 Q. With no Kyle Dwyer in there; right?

24 A. Correct.

25 Q. And again, all of these individuals --

1 Samuel Gonzalez, John Montano and Javier Rubio -- are
2 at Southern New Mexico; correct?

3 A. Yes. John Montano doesn't say where the
4 paperwork comes from. He just says that Clark told
5 John "That'd be messed up if the paperwork on the guy
6 just got showed up."

7 Q. And then Mr. Rubio?

8 A. Mr. Rubio says, "Joe Martinez a/k/a Cheech,
9 took the paperwork down and showed it to him. Edward
10 Troup and Javier Alonso were involved in the murder."
11 There is one more.

12 Q. So what does Joe Martinez say about this?

13 A. I believe he denied it.

14 Q. He denied even knowing anything about the
15 paperwork; right?

16 A. I believe so.

17 Q. And how many times did you talk to him?

18 A. I think twice.

19 Q. And was that all, then -- both of those
20 conversations or interviews it was as it related to
21 investigation of this case, it had nothing to do with
22 just casual seeing them at places and things like
23 that?

24 A. Yes.

25 Q. I say that because you say you went one

1 time to see somebody else and they pulled you aside
2 and started talking to you.

3 A. Yes.

4 Q. These are formal, sit-down interviews, to a
5 certain extent planned, I would say.

6 A. Yes.

7 Q. And the last one I want to talk to you
8 about -- and you talked about this a little bit with
9 Mr. Burke -- is Statement Number 77.

10 A. Okay.

11 Q. Again, we know that Mr. Dwyer is not
12 around. He's deceased; correct?

13 A. Yes.

14 Q. And this was Mr. Dwyer asking Ruben
15 Hernandez, who is, again, in Southern New Mexico, to
16 take something to Samuel Gonzales, and tell Samuel
17 Gonzales that was all he had; correct?

18 A. Yes.

19 Q. And it was just a piece of paper folded up;
20 right?

21 A. Yes.

22 Q. Has anybody ever said what that paper said?

23 A. No.

24 Q. So we don't know if that was, "Hey, I'll
25 meet you at chow tonight, and let's talk about who's

1 going to win the national championship for the NCAAs
2 in 2007"; right?

3 A. Right.

4 MR. BLACKBURN: I have nothing further,
5 Your Honor.

6 THE COURT: Thank you, Mr. Blackburn.

7 Ms. Torracco, do you have cross-examination
8 of Ms. Stemo?

9 MS. TORRACO: Yes, Your Honor.

10 MR. COOPER: Your Honor, if I may, before
11 she starts, I'd like to invoke the rule for this
12 motion hearing and all subsequent motion hearings, if
13 I may.

14 THE COURT: Well, who is going to be your
15 representative for the next trial?

16 MS. ARMIJO: It will be Bryan Acee, but
17 he's not even here today. But he would be allowed
18 in.

19 THE COURT: Is there a witness -- I mean,
20 we can invoke the rule, but is there a witness here
21 that you're concerned about?

22 MR. COOPER: No, but I'm afraid we may see
23 some witnesses, and I would hate for Agent Stemo or
24 somebody else to go in and start talking to these
25 witnesses about the testimony that's coming out of

1 this courtroom.

2 THE COURT: All right. The rule has been
3 invoked. Witnesses may not discuss their testimony
4 with each other. They may discuss it with attorneys.
5 They will be required to remain outside of the
6 courtroom until they are called to testify within the
7 courtroom.

8 MR. COOPER: Thank you, Your Honor.

9 THE COURT: Mr. Cooper.

10 CROSS-EXAMINATION

11 BY MS. TORRACO:

12 Q. Good afternoon. I think I'm the last
13 lawyer, so there is light at the end of the tunnel
14 for you.

15 I want to start with the statements that
16 surround the 2001 incident. Do any of those
17 statements apply to Andrew Gallegos?

18 A. No.

19 Q. And is Andrew Gallegos in any way
20 implicated regarding any of the 2001 statements?

21 A. No.

22 Q. Was he present for any of those statements?

23 A. I don't think so.

24 Q. And was Andrew Gallegos an SNM member in
25 2001?

1 A. I don't know.

2 Q. Do you believe he was an SNM member at any
3 time?

4 A. Yes.

5 Q. And when was that?

6 A. Sometime around 2005, 2006.

7 Q. So are you saying that, therefore, he was
8 not an SNM member in 2001?

9 A. I'm not saying that.

10 Q. Okay. And why do you say that he was an
11 SNM member in 2005 and 2006?

12 A. I say that's an approximation. I believe
13 we have witnesses that will say Mr. Gallegos joined
14 the SNM in the federal prisons.

15 Q. Okay. And when was Andrew Gallegos in the
16 federal system?

17 A. I believe he was indicted in 2005. I'm not
18 sure when exactly he was sent off.

19 Q. Okay. So your investigation concludes that
20 he became an SNM member after 2005; is that what I
21 heard you say?

22 A. I wouldn't make that generalization. I
23 believe --

24 Q. Based on your investigation?

25 A. That's just my belief. I don't know much

1 about Mr. Gallegos before 2005.

2 Q. Okay. And regarding the 2007 statements,
3 do any of those apply to Andrew Gallegos?

4 A. They do not.

5 Q. And do you know if he was around for any of
6 those conversations?

7 A. I don't think he was.

8 Q. Okay. And is he in any way involved in
9 either the creating or the hearing of those
10 statements?

11 A. No.

12 Q. Okay. So I'd like to start with Statement
13 Number 41. And I know that Mr. Benjamin asked you
14 extensively about this, so forgive me if I ask
15 something again. It's only because I was confused.
16 Was it ever established who the declarant was on
17 Statement Number 41?

18 A. I believe it was Joe Gallegos.

19 Q. So you believe it was or it is Joe
20 Gallegos?

21 A. I can check?

22 Q. Okay. Great.

23 A. I'm mistaken. In one report it says Joe
24 makes the statements. In another report it says
25 Smiley, which is Andrew Gallegos' moniker.

1 Q. Can you give me the number of the report
2 that says that Joe Gallegos made that statement?

3 A. 3445.

4 Q. And what day is that report dated?

5 A. November 21, 2012.

6 Q. And whose report is it?

7 A. James Mowduk.

8 Q. And what department is he with?

9 A. New Mexico State Police.

10 Q. And regarding 3445, who attributes that
11 statement? What's the source?

12 A. The person who tells us that is Michael
13 Sutton.

14 Q. And in what context does Michael Sutton
15 make that statement?

16 A. He stated that Leroy Vallejos was given a
17 rolled-up wad of money from Joe, and that Leroy
18 Vallejos stated that "They told me we just pulled off
19 a movida and we gotta go clean up."

20 Q. So I'm going to repeat that, and tell me if
21 I'm correct. Michael Sutton says that he was told by
22 Leroy Vallejos --

23 A. Correct.

24 Q. -- that Joe Gallegos said he just pulled a
25 movida?

1 A. Yes. I also have the report where Leroy
2 Vallejos say that.

3 Q. Okay, great. Can we stick to the first one
4 and then we'll move on in just a second? What is
5 your understanding of the word "movida"?

6 A. It's a move.

7 Q. Okay, a move.

8 A. Yes, or a job.

9 Q. And the exact quote that Michael Sutton
10 attributes to Leroy Vallejos is what?

11 A. "We just pulled off a movida, and we got to
12 go clean up."

13 Q. And according to this particular report,
14 Joe says that and he says "we," correct?

15 A. Correct.

16 Q. And there is no reference to Andrew
17 Gallegos; is that correct?

18 A. Not in that specific statement.

19 Q. Okay. And I understand that there is
20 another one, but let's just stay with that one for a
21 couple of minutes. So on the chart we've received
22 under Statement Number 41, where it says Joe and
23 Andrew, according to Michael Sutton, that would be an
24 incorrect sentence. It should just say "Joe,"
25 correct? "Joe says we just pulled off a movida"?

1 A. No.

2 Q. Why?

3 A. This is a statement that Leroy Vallejos
4 told to Michael Sutton relaying what Joe said.

5 Q. Right. But I thought you told me the
6 statement is that Joe told Leroy, "We just pulled off
7 a movida"?

8 A. Correct.

9 Q. So that's the statement, "We pulled off a
10 movida"?

11 A. Yes.

12 Q. In what context was that statement made?

13 A. Meaning Joe and Andrew.

14 Q. How do you know that it incriminated
15 Andrew?

16 A. In the same statement -- let me find it.
17 Leroy Vallejos and Michael Sutton encountered Joe and
18 Andrew Gallegos. There was no other individuals with
19 them.

20 Q. Okay. And where did they encounter them?

21 A. At the Allsup's.

22 Q. And what day was that?

23 A. I believe it was November 12, 2012.

24 Q. So they said, "We just pulled off a job, or
25 a movida," and then later Joe says "and we have to go

1 clean up"?

2 A. Yes.

3 Q. Okay. What else was the context of that
4 statement?

5 A. Joe had given Mr. Vallejos money and drugs.

6 Q. Okay. And how does Michael Sutton know
7 that?

8 A. He was there.

9 Q. Michael Sutton was present at the
10 statement?

11 A. Yes.

12 Q. I thought you just said that Leroy told
13 Michael Sutton about the statement?

14 A. Yes.

15 Q. Okay. And he was also present?

16 A. Yes, I believe he was there.

17 Q. Okay. So now I'm really confused. Did
18 Michael Sutton hear the statement, or was he told the
19 statement from Leroy?

20 A. Well, he makes more than one statement.

21 Q. Michael Sutton does?

22 A. He does.

23 Q. Okay. So let's start with the first one
24 where he says that Leroy told him that he had pulled
25 a movida. When is that statement made?

1 A. November 21.

2 Q. Then you say he gave another statement?

3 A. Yes. I don't think I have that with me.

4 Q. And what does Michael Sutton say about the
5 second statement?

6 A. Would you like me to read all of it for
7 you?

8 Q. How long is it?

9 A. It's about a paragraph.

10 Q. Let me ask you a few questions about it
11 first. When did Michael Sutton give the second
12 statement?

13 A. November 21.

14 Q. Did you just say that?

15 A. Yes.

16 Q. Sorry about that. And was the second
17 statement tape-recorded?

18 A. I believe it was.

19 Q. And was the first statement tape-recorded?

20 A. I don't have it in front of me, but I think
21 it was.

22 Q. Okay. So you think there's tape recordings
23 for both of those statements?

24 A. Yes.

25 Q. Now, let's go on to Leroy Vallejos. What

1 did Leroy say?

2 A. He said they ran into Joe and Smiley at the
3 Allsup's getting gas and beer. Leroy said he bummed
4 a cigarette from Joe, and Joe gave him one, and then
5 he said, 'Here, take the whole pack.' He said Joe
6 asked him if he was doing okay. And he said he was,
7 but didn't have any money. Joe said, 'Here,' and
8 gave him 18 dollars. Leroy said Joe told him, 'I
9 just came up.' We asked Leroy what he thought that
10 meant, and he said he remembered thinking that they
11 must have just robbed someone."

12 Do you want me to continue?

13 Q. Well, earlier, I thought you told me and
14 told the Court that Leroy Vallejos attributed the
15 statement to Andrew. So that's what I'm interested
16 in talking about.

17 A. All right. You meant that statement. So
18 this is another statement that Leroy relayed to
19 Michael Sutton. Smiley said they had just finished a
20 movida, which is Spanish for a move or a job.

21 Q. And what report are you referencing for
22 that statement?

23 A. Do you need the Bates number?

24 Q. Yes, please.

25 A. That's on 3868.

1 Q. And whose report is that?

2 A. Nathan Lucero.

3 Q. And is he also with the State Police?

4 A. He is.

5 Q. Is there a third statement about who made
6 the movida comment, or is that the only two
7 references?

8 A. There is the one I just read previously.

9 Q. Yes. So there's those two?

10 A. There is -- the two I just read off were
11 Michael Sutton. And then there is one from Leroy
12 Vallejos on 3892.

13 Q. Okay. So the one that you just read to me
14 and to the Court that's 3868, was that your testimony
15 that Michael Sutton had relayed that to the state
16 police officer because that said Andrew?

17 A. Yes.

18 Q. Okay. So Michael Sutton at one time says
19 it was Joe, and another time says it was Andrew that
20 made that statement?

21 A. Correct.

22 Q. Is that correct?

23 A. Correct.

24 Q. Okay. So now let's move on to what Leroy
25 says and that you said was 3892. What does Leroy

1 relay to the police?

2 A. This is on December 5, 2012. "Leroy said
3 Joe asked him if he was doing okay, and he said he
4 was, but didn't have any money. Joe said, 'Here,'
5 and gave him 18 dollars. Leroy said Joe told him 'I
6 just came up.'"

7 Q. Was there any reference in that statement
8 about the movida?

9 A. I don't think so.

10 Q. Okay. And was that statement also
11 tape-recorded?

12 A. Yes.

13 MS. TORRACO: May I have just a moment,
14 Your Honor?

15 THE COURT: You may.

16 BY MS. TORRACO:

17 Q. Okay. And how do you know movida means
18 move?

19 A. I know Spanish.

20 Q. Okay. Does movida mean murder?

21 A. No.

22 Q. Did either Leroy or Michael Sutton ever
23 clarify what movida meant?

24 A. I'm not sure that they did. In his later
25 statement, Leroy says something kind of leading to

1 that.

2 Q. And I'm open for what that is.

3 A. I'm looking for it.

4 Q. Okay.

5 A. On 3/9 Leroy said he knew that that Babylon
6 had got to see them -- meaning the brothers -- before
7 he went missing. And he told Michael that his
8 sister's boyfriend was probably a done deal. He said
9 he felt they had just killed and robbed someone.

10 Q. And who says this?

11 A. Leroy Vallejos.

12 Q. And he said that he felt --

13 A. Yes.

14 Q. Let's move on to Statement Number 42.

15 Again, I'm not clear with who the declarant was. I
16 know Mr. Benjamin asked you extensive questions. So
17 I'd like to divide -- and I believe this is what you
18 did with Mr. Benjamin. You divided that statement.
19 And the first part of Statement Number 42 says, "Joe
20 and Andrew Gallegos were covered in blood and advised
21 they were cleaning the house." And that was -- I
22 believe you attributed that to Daniel Orndorff; is
23 that correct?

24 A. I believe so.

25 Q. Do you want to confirm that?

1 A. It is.

2 Q. And you also have Michael Sutton and Leroy
3 Vallejos listed as sources for Statement Number 42.
4 Are either of those men also a source for that first
5 part of the statement?

6 A. Let me check. Michael Sutton said the
7 Gallegos brothers said they needed to go and clean
8 up. I don't think Leroy was involved in that
9 statement.

10 Q. Okay. And the statement from Michael
11 Sutton was -- when he says that they needed to go
12 clean up, was that tape-recorded?

13 A. Yes.

14 Q. And is that also a statement that was given
15 to the New Mexico State Police in 2012?

16 A. Yes.

17 Q. Okay. And what Bates number are you
18 referencing?

19 A. For Michael Sutton?

20 Q. Yes, please.

21 A. I lost it. Let me find it.

22 Q. That's okay.

23 A. It's 3868.

24 Q. Okay. Thank you. And here it says, "Joe
25 and Andrew were covered in blood." Is that an

1 observation or a statement or something else?

2 A. It's Mr. Orndorff described the Gallegos
3 brothers as being covered in blood. It could be both
4 a statement and an observation.

5 Q. And that statement by Daniel Orndorff that
6 they were covered in blood -- was that recorded?

7 A. Yes.

8 Q. And what is the context of that statement?

9 A. He describes the Gallegos brothers being
10 covered in blood, and they reasoned -- "they" being
11 the Gallegos brothers -- that they had been at a
12 matanza the previous day.

13 Q. Did you ever confirm whether or not they
14 did have a matanza the previous day?

15 A. No, but I believe other sources have
16 confirmed that or corroborated that.

17 Q. And did Daniel Orndorff make the statement
18 at the Allsup's that he saw this at the Allsup's or
19 is this someplace else?

20 A. I believe Daniel only saw them at the 4
21 Aaron Court trailer.

22 Q. Okay. So that's where he saw them covered
23 in blood?

24 A. I believe so.

25 Q. And what date was that?

1 A. That he saw them or that he made the
2 statement?

3 Q. Both.

4 A. The day Mr. Orndorff saw them covered in
5 blood was the day of the homicide.

6 Q. So is Mr. Orndorff a co-conspirator?

7 A. No.

8 Q. And what about Mr. Sutton? Was he a
9 co-conspirator?

10 A. I'd consider him more of a witness.

11 Q. Same thing with Mr. Orndorff? He's a
12 witness?

13 A. Yes.

14 Q. And what about Leroy Vallejos?

15 A. He could be considered a co-conspirator.

16 Q. How so?

17 A. He was given drugs and money that could
18 have been evidence.

19 Q. Okay. And are you able to trace the fact
20 that the drugs and money did indeed come from
21 something relating to the Adrian Burns murder?

22 A. Not concretely. I believe both Mr. Sutton
23 and Daniel Orndorff described the packaging that was
24 similar to how Mr. Burns packaged his heroin.

25 Q. And they're saying that the heroin that

1 they were given that day was consistent with the
2 Adrian Burns packaging?

3 A. Yes.

4 Q. And regarding the statement that they were
5 cleaning the house, I don't know if you -- you've got
6 a copy of the document; correct?

7 A. Yes.

8 Q. And that's in quotations. Did you put that
9 in quotations?

10 A. No, I didn't write this.

11 Q. Okay. And were they discussing actually
12 cleaning the home they live in?

13 A. Can I read the statement to you?

14 Q. Sure.

15 A. "Daniel stated that he entered 4 Aaron
16 Court sometime around 9:30 p.m. and observed Joe and
17 Andrew Gallegos trashing the house. Daniel stated
18 that Joe and Andrew were obviously tweaking on
19 methamphetamine, and they advised that they were
20 cleaning the house."

21 Q. And I want to go back to the beginning part
22 of that statement, because I'm not sure, did you say
23 that they were "trashing the house"?

24 A. That's what Mr. Orndorff believed they were
25 doing.

1 Q. What does that mean?

2 A. You'd have to ask him. I don't know what
3 he meant.

4 Q. Okay. Could it mean that they were making
5 a mess in their house?

6 A. It could.

7 Q. Okay. And this cleaning the house
8 statement -- could that mean that they were literally
9 cleaning their home?

10 A. Possible.

11 Q. Now, the second part of this statement,
12 "Joe Gallegos later went by Leroy Vallejos' house and
13 tried to give Vallejos and Andrew Gallegos the
14 truck." Who said that?

15 A. Leroy did, Mr. Vallejos.

16 Q. So what is the statement that is attributed
17 to one of the Gallegoses?

18 A. "Leroy said that the next day, on Tuesday,
19 Joe came by his house and wanted to give him their
20 truck."

21 Q. So is there a statement there?

22 A. That is a statement. Just because it's in
23 quotations doesn't mean it's not a statement.

24 Q. Okay. Let's move on to Statement Number
25 43. Is Charlene Baldizan considered to be a

1 co-conspirator?

2 A. Yes.

3 Q. Why is that?

4 A. She assisted the Gallegos brothers in
5 hiding from law enforcement.

6 Q. And is that where the harboring a fugitive
7 charge came from?

8 A. I believe so.

9 Q. And are you aware of the disposition of
10 that particular charge?

11 A. I think it was dismissed.

12 Q. Okay. Do you know why she stated that she
13 thought that the Gallegos brothers thought the police
14 were looking for the van?

15 A. She said the suspect knew it was registered
16 to them and they did not want it at the motel where
17 they were staying.

18 Q. And did she attribute that to either one of
19 the Gallegos brothers?

20 A. She did not.

21 Q. And when did she make the statement?

22 A. November 20.

23 Q. And that was against the State Police?

24 A. Yes.

25 Q. Okay. And that statement was recorded?

1 A. I believe it was, but I'm not entirely
2 sure.

3 Q. And do you know why the charges were
4 dismissed?

5 A. No.

6 Q. Do you know if she was given an immunity
7 agreement?

8 A. I don't know.

9 Q. Okay. Statement Number 44. And I believe
10 when you were testifying as Mr. Benjamin was asking
11 you questions, you said that it was only Joe Gallegos
12 asked Jason to clean up the living room; is that
13 correct?

14 A. I'd have to double-check.

15 Q. Okay.

16 A. Yes, it was.

17 Q. There is also something about Joe Gallegos
18 asked Van Veghel to clean blood off the air
19 compressor?

20 A. Yes.

21 Q. What's the significance of the air
22 compressor?

23 A. Aside from there being blood on there? I
24 don't know that there is any more.

25 Q. There is no other significance, other than

1 there was blood?

2 A. Yes, evidence.

3 Q. And who tested the blood on the air
4 compressor?

5 A. No one did. Mr. Van Veghel wiped it off.

6 Q. But isn't it true, if he just wiped it off,
7 that there would still be blood that would be
8 viewable, like through a black light or something?

9 A. I don't believe the New Mexico State Police
10 were looking for blood in 2012 or 2013.

11 Q. Okay. So was there any blood tested from
12 the air compressor?

13 A. Not that I'm aware of.

14 Q. Okay. Move on to Statement Number 45. And
15 who was the source of Statement Number 45?

16 A. Jason Van Veghel.

17 Q. And he gave the statement in 2016; is that
18 correct?

19 A. Yes.

20 Q. Which field was Andrew Gallegos alleged to
21 have thrown these keys and the wristwatch?

22 A. It's a field off of Ladera Road.

23 Q. How do you know?

24 A. That's what Mr. Van Veghel says.

25 Q. And his statement -- was that recorded?

1 A. I don't think it was.

2 Q. Was that a statement taken by the FBI?

3 A. Yes.

4 Q. And what is the FBI policy for recording
5 statements?

6 A. We're only mandated to record interviews of
7 recently arrested people right after Miranda or
8 before Miranda but if a person is being Mirandized.

9 Q. Okay. And Jason Van Veghel was not
10 Mirandized?

11 A. No, I don't think he was.

12 Q. Is that because he was not considered to be
13 a co-conspirator?

14 A. I don't know.

15 Q. Was Jason Van Veghel considered to be a
16 co-conspirator?

17 A. I think he is.

18 Q. And the wristwatch. What significance is
19 that?

20 A. I think there is an assumption that it may
21 have belonged to the victim.

22 Q. And how do you know that?

23 A. I think it's an assumption.

24 Q. Okay. So you don't know that?

25 A. No.

1 Q. And did anyone report a missing watch?

2 A. No.

3 Q. And did the wife or the girlfriend or the
4 mother or anyone else in Mr. Burns' life report that
5 there was a watch missing?

6 A. Not to my knowledge.

7 Q. And what about the keys? What were the
8 keys to?

9 A. I think that's another assumption that it
10 belonged to the vehicle that was burned.

11 Q. Okay. And was that ever confirmed?

12 A. No, we never found the keys.

13 Q. And did you ever find the watch?

14 A. No, we didn't.

15 Q. What efforts did the FBI make to -- or the
16 New Mexico State Police or any other agency make to
17 find the keys or wristwatch in that field?

18 A. They attempted to conduct a search of
19 fields on Ladera Road.

20 Q. And when was that?

21 A. I believe it was 2016.

22 Q. Okay. So the fact that a wristwatch and
23 the set of keys may have been thrown by Andrew
24 Gallegos -- I guess I want you to somehow tell me how
25 that's relevant.

1 A. Well, it's based on the assumption that the
2 keys belonged to the burned vehicle and the watch
3 belonged to the victim.

4 Q. Okay, thank you. Statement Number 46. I'm
5 not clear on what the stolen goods were.

6 A. I'm not either.

7 Q. Okay. So we don't know?

8 A. No.

9 Q. Okay. And the guns. What is the
10 significance of the guns?

11 A. A gun was used to murder Mr. Burns.

12 Q. And was it one of these guns that --

13 A. We don't know. They weren't recovered.

14 Q. Okay. So there's other reasons why Mr.
15 Gallegos might want to get rid of a gun and some
16 stolen goods; isn't that true?

17 A. Yes.

18 Q. And this statement by Jason Van Veghel --
19 was that also in 2016?

20 A. Yes.

21 Q. And that was also the statement that was
22 not recorded?

23 A. Correct.

24 Q. You started to tell me about the policy.
25 Is that policy written anywhere?

1 A. I believe so.

2 Q. Is that something that we have access to?

3 A. I don't know.

4 Q. And do you mind sharing that policy with
5 us?

6 A. I'd have to speak with our chief division
7 counsel.

8 Q. And does Jason Van Veghel acknowledge that
9 he did take a gun and other stolen goods?

10 A. That's what he told us.

11 Q. And does he tell you where he stored those
12 goods?

13 A. No, he doesn't.

14 Q. And did he ever turn those goods over to
15 you?

16 A. No, he didn't.

17 Q. Did the FBI ask for those guns?

18 A. I don't know. I wasn't there.

19 Q. Okay. Who took that statement?

20 A. Agent Acee.

21 Q. And what document are you referencing to
22 give me this information and to give it to the Court?

23 A. 43658 and 59.

24 Q. I'm sorry?

25 A. And 59.

1 Q. And there is no documentation as to whether
2 or not Jason Van Veghel ever produced those stolen
3 goods and the weapons?

4 A. No, not to my knowledge.

5 Q. Not to your knowledge, he didn't produce
6 it? Not to your knowledge, it wasn't requested?

7 A. Both.

8 Q. Okay. Thank you.

9 Now, regarding the statements that have
10 been tendered that referenced on or about February 27
11 of 2016, do those in any way relate to Andrew
12 Gallegos?

13 A. They do not.

14 Q. None of them are attributed to him;
15 correct?

16 A. Correct.

17 Q. And none of them reference him; correct?

18 A. Correct.

19 Q. And he's not involved in any way with
20 anything that went on on or about February 27 of
21 2016; isn't that true?

22 A. Correct.

23 Q. Now, there is a Statement 51. I'm a little
24 confused by that statement, if you can help me out.
25 It might have been changed. I don't know. So you're

1 going to have to help me. "Joe Gallegos feared Gomez
2 would testify against him on a state murder charge."

3 Do you have any reason to believe that
4 references the Adrian Burns murder?

5 A. No.

6 Q. Are you positive that does not reference
7 the Adrian Burns murder?

8 A. Yes.

9 Q. And then Statement Number 54. This is
10 another 2016 statement. What was the context of
11 Brandy Rodriguez' statement when she said, "You
12 better not testify against my jefe"?

13 A. I believe she was talking about Joe
14 Gallegos and she was telling this to Jose Gomez.

15 Q. And Paul Rivera was the one that gave this
16 statement to the FBI?

17 A. He did.

18 Q. And is that statement recorded?

19 A. No.

20 Q. And so when Paul Rivera gave you that
21 statement, what were the surrounding circumstances
22 that he explained to you? Specifically I want to
23 know if anyone else called Joe Gallegos "jefe."

24 A. I don't think anyone else did.

25 Q. Do you need to verify that?

1 A. I can look, but I'm pretty sure that no one
2 else called him "jefe."

3 Q. And specifically did Andrew Gallegos ever
4 call him "jefe"?

5 A. Not to my knowledge.

6 Q. So based on your investigation, is it fair
7 to say that Andrew Gallegos did not call him "jefe"?

8 A. That's a fair assumption.

9 Q. I'm sorry?

10 A. That's a fair assumption.

11 Q. Well, I don't want to assume. I want to
12 know what you've learned in your investigation.

13 A. I don't remember seeing anything where
14 Andrew refers to his brother as jefe.

15 Q. And does anyone else? Because before you
16 keep saying that's an assumption, I assume so. Does
17 anyone else call Joe Gallegos jefe except for Brandy?

18 A. Not that I'm aware of.

19 Q. Okay. And I want to confirm on Statement
20 Number 69. There is a statement there that Paul
21 Rivera attributes to Brandy Rodriguez saying, "This
22 is a message from Joe." That is a direct quote?

23 A. The actual sentence says Rodriguez entered
24 the bedroom and kicked Gomez once and said something
25 to the effect of "This is a message from Joe."

1 Q. Okay.

2 MS. TORRACO: May I have a moment, Your
3 Honor.

4 THE COURT: You may.

5 MS. TORRACO: That's all the question I
6 have. Thank you.

7 THE COURT: Thank you, Ms. Torraco.

8 MS. TORRACO: Thank you, Your Honor.

9 THE COURT: All right. Ms. Arellanes.

10 MS. ARELLANES: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. ARELLANES:

13 Q. I'd like to follow up on some of the
14 questions that Mr. Benjamin asked you this morning.

15 A. Okay.

16 Q. Now, with regard to Statement Number 47,
17 I'll direct your attention to that statement?

18 A. Okay.

19 Q. The declarant there is -- I'm sorry, the
20 source there is Jose Gomez; is that correct?

21 A. Yes.

22 Q. And in fact, Jose Gomez gave a couple of
23 statements during the course of this investigation;
24 is that correct?

25 A. I believe so.

1 Q. And the first statement was on 2/27/16,
2 when he was talked to at the hospital by Otto King?

3 A. Yes.

4 Q. And then the second statement he gave was
5 on 3/9/16, when he was interviewed by Mr. Acee, Agent
6 Acee?

7 A. I believe so.

8 Q. And in the statement at the hospital Jose
9 Gomez said that Oso told Gomez, "You remember me?"

10 A. No, he said Gonzalez said that.

11 Q. Okay. Now if I show you a transcript of
12 the statement where he said that Oso said, "You
13 remember me, fool," would that -- where do you get
14 that information that Santos told Gomez, "You
15 remember me?" Where is it written down?

16 A. In Detective King's report.

17 Q. Now, have you seen the transcript of Jose
18 Gomez's interview at the hospital?

19 A. No.

20 Q. Okay. And if I show you a statement of
21 that showing what he said, he said it was Oso that
22 told him that rather than Santos --

23 A. That would help.

24 MS. ARELLANES: May I approach the witness,
25 Your Honor?

1 THE COURT: You may.

2 BY MS. ARELLANES:

3 Q. I'll direct your attention to this part.

4 MR. CASTELLANO: Your Honor, is there a
5 Bates stamp associated with that?

6 MS. ARELLANES: There is no Bates stamp.
7 It was an interview taken at the hospital. I don't
8 think there is a transcript of that in the discovery.

9 A. This doesn't look like a transcript.

10 BY MS. ARELLANES:

11 Q. Okay. Have you listened to the interview?

12 A. I have not.

13 Q. Okay. So you actually have not listened to
14 the interview itself?

15 A. No.

16 Q. Okay. So you can't say for certain, other
17 than the report by Otto King, that Santos was the
18 source of that information to Jose Gomez; is that
19 correct?

20 A. Correct.

21 Q. So once you interview -- once you listen to
22 the audio of that particular interview, you probably
23 would have a little bit more information about that;
24 is that correct?

25 A. Okay.

1 Q. And the next statement is that they told
2 Gomez that Joe Gallegos put a hit out and they were
3 there to kill him. When was that statement made by
4 Jose Gomez?

5 A. On the same day of the assault.

6 Q. Okay. And to whom?

7 A. To Mr. King.

8 Q. And did you listen to the audio interview
9 of Agent Acee of Jose Gomez?

10 A. I don't know that there is audio.

11 Q. Okay. Yeah, there is. You haven't
12 listened to it?

13 A. No, I haven't.

14 Q. Now, with regard to Statement Number 48,
15 the source of that statement is Brandy Rodriguez; is
16 that correct?

17 A. Yes.

18 Q. And that particular statement -- have you
19 reviewed the 302 of Brandy's statement on 32816?

20 A. That's not 302. That's a Valencia County
21 report.

22 Q. So I think there is a 302. I believe if I
23 show you the 302, would you agree that there is a
24 302 --

25 A. Yes.

1 Q. -- on Brandy. Okay.

2 THE COURT: Ms. Arellanes, do you want to
3 let her look at this during the break?

4 MS. ARELLANES: Sure, Your Honor.

5 THE COURT: Let's be in recess about 15
6 minutes.

7 (The Court stood in recess.)

8 THE COURT: Let's go back on the record.

9 All right, Ms. Stemo. I'll remind you that
10 you're still under oath.

11 Ms. Arellanes, if you wish to continue your
12 cross-examination of Ms. Stemo, you may do so at this
13 time.

14 MS. ARELLANES: Thank you, Your Honor.

15 THE COURT: Ms. Arellanes.

16 BY MS. ARELLANES:

17 Q. Okay. Now, going back to Statement Number
18 47, Jose Gomez gave an audio statement that you did
19 not hear; is that correct?

20 A. Yes.

21 Q. And in that audio statement he mentioned
22 that Joe Lawrence was seeing an ex-girlfriend by the
23 name of Mary Crumpton; is that correct?

24 A. I don't know. Like I said, I didn't listen
25 to the audio.

1 Q. Now, with regard to Statement Number 48,
2 the declarant there is -- the source there is Brandy
3 Rodriguez and she stated that Shauna Gutierrez didn't
4 finish him when Gomez ran away?

5 A. Yes.

6 Q. Now, that particular statement is not
7 written on the 302 of 328 that I showed you earlier;
8 is that correct?

9 A. Correct.

10 Q. And in fact, that statement is not on the
11 302; that Brandy Rodriguez gave several statements to
12 Acee; is that correct?

13 A. I'm not sure if she spoke to Agent Acee.
14 But she did give several statements to FBI agents.

15 Q. Okay. The first statement was on 3/28/16,
16 the 302 that I showed you.

17 A. Yes.

18 Q. Then there was another statement on
19 7/12/16. There was another 302 written about that?

20 A. July 6, 2016.

21 Q. I'm sorry, July 12 of 2016.

22 A. That's the date of entry. The interview
23 was actually on the 6th.

24 Q. I've got a copy. Do you wish to look at
25 it?

1 A. Sure.

2 Q. I'll give you a chance so you don't have to
3 hunt for it.

4 MR. CASTELLANO: Could we have a Bates
5 stamp for that 302, please?

6 MS. ARELLANES: 43423.

7 A. I have that report. It is an interview on
8 July 6.

9 BY MS. ARELLANES:

10 Q. July 6. The date of entry was on July 12.
11 I'm sorry. Yeah. And that particular statement is
12 not in that 302?

13 A. Correct.

14 Q. And in fact, Brandy said that she was
15 pretty drunk on the day of the event?

16 A. Yes.

17 Q. And she was highly intoxicated at 9:00 in
18 the morning?

19 A. I believe so.

20 Q. And she had a spotty memory of the events?

21 A. Yes.

22 Q. Now, jumping over to Statement Number 51.
23 The source of that statement is Paul Rivera. And the
24 statement says that Shauna Gutierrez and Brandy
25 Rodriguez told him that Joe Gallegos had put a hit --

1 the declarant was Shauna Gutierrez and Brandy
2 Rodriguez, and Joe Gutierrez had placed a hit on
3 Gomez, because Gallegos feared Gomez would testify
4 against him on a state murder charge; is that
5 correct?

6 A. I think you mixed up some names. Paul
7 Rivera doesn't say who told him. He just says he was
8 with Shauna and Brandy, and he learned of the green
9 light on Mr. Gomez.

10 Q. Oh, okay. And so again I direct your
11 attention to the 302 of Paul Rivera dated 10/26/16.

12 A. Okay.

13 Q. And I direct your attention to the last
14 paragraph of the first page, and that would be Bates
15 No. 43417.

16 A. Okay.

17 Q. And it says, "Although Rivera did not know
18 why Rodriguez wanted to confront Rodriguez, he went
19 with her and Gonzalez in Gutierrez's truck." Did he
20 say that?

21 A. Yes.

22 Q. And in fact, Paul Rivera gave an audio
23 statement when he was interviewed back in May of
24 2016; is that correct?

25 A. I'm not sure.

1 Q. Okay. If I show you a transcript, will
2 that reassure you that there was an audio statement?

3 A. It would.

4 MS. ARELLANES: May I approach the witness,
5 Your Honor?

6 THE COURT: You may.

7 A. Yes.

8 BY MS. ARELLANES:

9 Q. Then have you listened to this audio
10 statement?

11 A. I have not.

12 Q. I'm sorry?

13 A. I have not.

14 Q. Okay. And I think you testified earlier to
15 Ms. Torracco that you -- there was not an audio
16 statement of Paul Rivera, didn't you?

17 A. His later statements.

18 Q. His later statements, okay. And in the
19 audio statement, Rivera tells Acee supposedly they're
20 saying that he had a beef with Joe before Joe stuck
21 him through his hand; you don't recall that?

22 A. Well, Mr. Acee was at that interview.

23 Q. Yeah. All right. So I'll direct your
24 attention to the middle of the page right here.

25 A. Do you want me to read it?

1 Q. Well, read this part right here.

2 A. Okay. "Mr. Rivera: But that was over. I
3 don't know. But they're saying that he knows about a
4 murder Joe did, I guess, out here, that he's
5 testifying against him. That's what Brandy says."

6 Q. Okay. So that's what Brandy says; is that
7 correct?

8 A. According to Paul Rivera.

9 Q. Well, he's the source of your -- he's going
10 to be a witness for the Government in this case?

11 A. Yes.

12 Q. But he didn't say anything about Shauna,
13 did he?

14 A. In this transcript?

15 Q. Right.

16 A. I don't know. I'd need to read the entire
17 transcript.

18 Q. In that particular portion, that particular
19 paragraph?

20 A. No, he doesn't.

21 Q. And again, with regard to Statement Number
22 52, the source, there again, is Paul Rivera. Okay.
23 And it's not clear. I guess there are two sources
24 there, Paul Rivera and Brandy Rodriguez.

25 A. Yes.

1 Q. It says, "Upon learning where Gomez is
2 staying, Shauna and Brandy agreed they needed to go
3 after Gomez"?

4 A. Yes, that's what that says.

5 Q. And again I direct your attention to the
6 302 of 10/26/16 of Paul Rivera. I think I lost it.
7 Oh, here it is. Do you have that Bates No. 43417?

8 A. I have it.

9 Q. And on the fourth paragraph down it says,
10 "Gutierrez learned that Gomez was at a nearby
11 trailer. Rodriguez said, 'Let's go,' to Gomez and
12 Rivera"; is that correct?

13 A. Yes.

14 Q. So there is nothing in that particular
15 paragraph that says that Shauna Gutierrez and Brandy
16 Rodriguez agreed?

17 A. No, not in that paragraph.

18 Q. Now, with regard to -- I'll jump over to
19 Statement Number 56, and that's Paul Rivera. So that
20 would be Bates No. 43413.

21 A. Okay.

22 Q. And so the source there again is -- I think
23 Mr. Benjamin talked about this this morning -- the
24 declarant is Brandy Rodriguez, Paul Rivera, or Santos
25 Gonzalez?

1 A. Yes.

2 Q. They told Shauna Gutierrez that they had
3 completed their mission, and Shauna Gutierrez laughed
4 and said she was "happy to hear" Gomez is likely
5 dead. Now, on this particular 302, is there anything
6 in there saying this statement?

7 A. There is.

8 Q. There is?

9 A. Yes, on the next page.

10 Q. I'm sorry?

11 A. On the next page.

12 Q. What Bates number?

13 A. 43414.

14 Q. Okay.

15 A. The third paragraph at the end, it says,
16 "Shauna laughed and said that Gallegos would be happy
17 to hear the news."

18 Q. And this is the interview of 5/8/16?

19 A. Yes.

20 Q. Now, with regard to Statement Number 58,
21 okay, the source there is Brandy Rodriguez, and the
22 statement is: "How come you guys didn't do the job
23 more fully after she previously told Rivera,
24 Gonzalez, and Rodriguez to go get him."

25 Now, the source of that statement is Brandy

1 Rodriguez; is that correct?

2 A. Just a moment. Let me find it.

3 Q. Okay.

4 A. Yes, that is Brandy.

5 Q. Brandy did not say that on 3/28/16 when she
6 was arrested; is that correct?

7 A. I don't believe so.

8 Q. And she also gave a statement on 7/12/16,
9 or that was the date of the 302. She didn't say that
10 at that time, did she?

11 A. I don't think she did.

12 Q. And when did Paul Rivera state this
13 particular statement?

14 A. Brandy Rodriguez made that statement.

15 Q. Okay. But there is an entry saying that
16 Paul Rivera is also a source.

17 A. I think that references the "go get him"
18 part.

19 Q. I'm sorry?

20 A. I think that references the "go get him"
21 part.

22 Q. Okay.

23 A. That's on 43423.

24 Q. Now, with regard to Mario Chavez, the
25 statement says Brandy Rodriguez and Shauna Gutierrez

1 had people in place for an attack on Gomez. Where
2 did Mario Chavez get that information?

3 A. Brandy Rodriguez told him that.

4 Q. And how does he know Brandy Rodriguez?

5 A. I don't know.

6 Q. And that particular information was
7 obtained on 4/19/17; is that correct?

8 A. No.

9 Q. That information was obtained on 3/29/17?

10 A. Yes.

11 Q. Approximately over a year after the alleged
12 assault?

13 A. Yes. I take that back. I think Mario
14 Chavez dated Brandy Rodriguez briefly.

15 Q. Okay. And one of the statements is that he
16 says that he was the go-between, between when Joe
17 Lawrence was in jail in the county jail in Valencia
18 County?

19 A. Yes.

20 Q. And he was the go-between between him and
21 who?

22 A. Shauna Gutierrez and Brandy Rodriguez.

23 Q. So he would give notes to Brandy and
24 Shauna?

25 A. I believe so.

1 Q. Okay. Now, Joe Lawrence is actually dating
2 Mary Crumpton at that time; is that correct? Or do
3 you know?

4 A. I don't know.

5 Q. And I suppose if you had listened to Jose
6 Gomez' interview, you would hear that?

7 A. If it's on there.

8 Q. I'm sorry?

9 A. If it's on there, yes.

10 Q. And what benefit did Mr. Mario Chavez get
11 in talking to you guys?

12 A. I don't think he received anything aside
13 from a Kastigar letter.

14 Q. Okay. Then how did he get wind about
15 Mr. Mario Chavez?

16 A. I believe one of the STIU officers at
17 Central notified me that a new SNM member had
18 arrived.

19 Q. Okay. And how is that relevant to the
20 assault to Jose Gomez, though?

21 A. It wasn't at the time. I just went down
22 and talked to Mr. Chavez.

23 Q. But how did you know to talk to him?

24 A. It was just a tip that I received from an
25 STIU officer. There was nothing indicating that he

1 would have any information.

2 Q. All right. And did he say when Brandy told
3 him when Shauna told her they would get people
4 together to assault JG, Jose Gomez?

5 A. No.

6 Q. Now, with regard to -- go to Statement
7 Number 69 and 70. Let's go to Statement Number 70.
8 The source there is Paul Rivera; the declarant there
9 is Shauna Gutierrez?

10 A. Yes.

11 Q. And Shauna Gutierrez stated she is ride or
12 die with Joe Gallegos after admitting that she and
13 Joe Gallegos put a hit on Brandy Rodriguez based on
14 her belief that Rodriguez was a cooperator? Now,
15 this was obtained on a bus ride from Torrance County
16 to court in November of 2016, one of the court
17 hearings?

18 A. I believe so.

19 Q. And now, was that statement recorded in any
20 way?

21 A. Which statement?

22 Q. That she's ride or die with Joe Gallegos?

23 A. No, it wasn't.

24 Q. Paul Rivera was not wired at that time?

25 A. No.

1 Q. And in fact, Joe Lawrence was housed in
2 Otero County at that time; is that correct?

3 A. I believe so.

4 Q. And Shauna Gutierrez was housed in Torrance
5 County at that time?

6 A. I believe so.

7 Q. Now, did you intercept any letters between
8 Shauna or Joe indicating that there was a conspiracy
9 to murder Brandy Rodriguez?

10 A. I did not, no.

11 Q. Are there any letters at all that you know
12 of?

13 A. No.

14 Q. Okay. Are there any phone calls between
15 anybody showing that there is a conspiracy to murder
16 Brandy Rodriguez between Shauna and Joe Lawrence?

17 A. None that I'm aware of.

18 Q. So the only thing you really have is a
19 statement by Paul Rivera?

20 A. Yes.

21 Q. No corroboration at all?

22 A. No.

23 Q. By any source?

24 A. No.

25 Q. By anybody?

1 A. No.

2 Q. Now, in the bus ride there were other
3 people in the bus at the same time; is that correct?

4 A. I assume so.

5 Q. Normally men and women are not placed
6 together in the bus ride from the jail?

7 A. I don't know that.

8 Q. They usually keep the females separated
9 from the men?

10 A. I don't know what the transport policies
11 are.

12 Q. Who placed Paul Rivera next to Shauna
13 Gutierrez?

14 A. I don't know.

15 Q. Was that a calculated move?

16 A. No.

17 Q. But you don't know that?

18 A. No.

19 Q. Obviously Paul Rivera sat next to Shauna
20 Gutierrez to engage in a conversation with her; is
21 that correct?

22 A. I don't know that he said that they sat
23 next to each other. He just said they had a
24 conversation on a van.

25 Q. Okay. All right. And no one else heard

1 that conversation?

2 A. Not I'm aware of.

3 Q. None of the guards?

4 A. Not that I'm aware of.

5 Q. Or any of the other inmates?

6 A. No.

7 Q. So it's just a bald statement by Paul
8 Rivera?

9 A. Yes.

10 MS. ARELLANES: I have no further
11 questions.

12 THE COURT: Thank you, Ms. Arellanes.

13 Before I ask Mr. Castellano if he has any
14 redirect, does any other defendant want to ask
15 anything further?

16 All right. Mr. Castellano.

17 REDIRECT EXAMINATION

18 BY MR. CASTELLANO:

19 Q. Agent Stemo, turning to the Burns murder,
20 you were asked, related to Statement 41, about any
21 evidence collected from the house and anything Jason
22 Van Veghel did. Were you aware of whether or not he
23 was asked to remove a carpet from Joe Gallegos and
24 Andrew Gallegos' house?

25 A. Yes.

1 Q. And in addition, was he asked to wipe down
2 a compressor to remove the blood from it?

3 A. Yes.

4 Q. And in your experience, would that have
5 made it more difficult to collect evidence from that
6 home?

7 A. It would have.

8 Q. You also were asked about your experience.
9 What were you doing before the FBI?

10 A. I was in the military.

11 Q. Which branch?

12 A. The United States Army.

13 Q. For how long?

14 A. Six years.

15 Q. What was your rank?

16 A. I was a staff sergeant.

17 Q. And what was your MOS?

18 A. I was an intelligence analyst.

19 Q. Okay. Now, you were asked about this once
20 again at the gas station related to the Burns
21 homicide. There is an indication that they were --
22 the Gallegoses were giving out money and drugs. Do
23 you recall that?

24 A. Yes.

25 Q. And was it -- related to the drugs, was

1 there something distinctive about the way that Adrian
2 Burns would package his drugs?

3 A. There was.

4 Q. And did the witnesses who received those
5 drugs recognize those as the drugs that Adrian Burns
6 would normally have and package?

7 A. Yes.

8 Q. The statements we have related to the Jose
9 Gomez assault, when the table refers to things that
10 they said generally, is that an indication that the
11 group was conveying information to someone like
12 Shauna Gutierrez?

13 A. Yes.

14 Q. For example, let me turn your attention to
15 Statement Number 56. So when it says, "They told
16 Shauna they had completed their mission," was that an
17 indication, then, by Paul Rivera that the group had
18 conveyed that information to Ms. Gutierrez?

19 A. Yes.

20 Q. You were asked about a statement, not
21 necessarily a co-conspirator statement but an
22 admission, that Billy Garcia admitted to the Castillo
23 and Garza murders. Do you recall that?

24 A. I do.

25 Q. Do you know if there was any specific

1 follow-up so far as to that statement?

2 A. I think there was.

3 Q. And you were asked about the incident
4 between Baby Zack and Gerald Archuleta. So were you
5 present at Trial 1 when that testimony was given?

6 A. I was not.

7 Q. You were also asked about -- by Ms.
8 Arellanes about a possible, prior conflict between
9 Joe Gallegos and Jose Gomez. Do you remember that?

10 A. Yes.

11 Q. And if there is a prior conflict, would
12 that then provide a reason or a motive for Joe
13 Gallegos to then stab or assault Jose Gomez?

14 MR. BENJAMIN: Objection, speculation, Your
15 Honor.

16 THE COURT: Well, it may be, but I want to
17 hear what the Government's theory is for getting
18 these things in, so I'll overrule it.

19 A. Yes.

20 MR. CASTELLANO: May I have a moment, Your
21 Honor?

22 THE COURT: You may.

23 MR. CASTELLANO: Thank you, Your Honor. I
24 pass the witness.

25 THE COURT: Thank you, Mr. Castellano.

1 Did you have something further, Mr.
2 Benjamin?

3 MR. BENJAMIN: Yes, Your Honor.

4 THE COURT: All right. Mr. Benjamin.

5 RECROSS-EXAMINATION

6 BY MR. BENJAMIN:

7 Q. I'm going to do this kind of the way Mr.
8 Castellano did. I'm going to refer to these
9 statements generally. If there is one that you want
10 me to go back and refer to, I can go back and refer
11 to it. But you were asked about the packaging, if
12 there was a unique way that the drugs were packaged;
13 correct?

14 A. Yes.

15 Q. And that was something that was known to
16 the New Mexico State investigators, State Police?

17 A. Yes.

18 Q. They were the ones that took Michael
19 Sutton's statement?

20 A. Yes.

21 Q. On the day of -- essentially the 13th is
22 when they took his initial statement?

23 A. Yes.

24 Q. Okay. And they looked for that packaging
25 at the house three days after. Well, they searched

1 the house three days after; correct?

2 A. They did search.

3 Q. And there was no packaging marked in the
4 way that Daniel Orndorff referred to Babylon
5 packaging his drugs; correct?

6 A. Not that I'm aware of.

7 Q. You're smiling. That kind of is something
8 they would have looked for, probably; right?

9 A. I would think so.

10 Q. And they certainly would have noted it if
11 they'd found it?

12 A. Yes.

13 Q. And there was an -- Mr. Castellano asked
14 you about wiping things down?

15 A. Yes.

16 Q. We don't know what they could have found,
17 is probably the best way to put it, had they tested
18 any of the materials for -- that had been wiped down;
19 correct?

20 A. In 2012?

21 Q. In 2012 or in 2016, both times that DNA was
22 looked for.

23 A. Yes.

24 Q. Okay. And if you look at the 2003 Chevy
25 Silverado, that's the white truck that was

1 essentially seized that I think the New Mexico State
2 Police believes was used in the murder; correct?

3 A. Yes.

4 Q. That truck is anything but clean; is that
5 fair?

6 A. Yes.

7 Q. There is no way to describe that truck as
8 having been wiped down. And will you go so far as to
9 agree, anywhere on that truck?

10 A. I don't know that.

11 Q. Okay. But they found blood in that truck?

12 A. I think suspected blood.

13 Q. And they cut it out and they found out it
14 wasn't; right?

15 A. I believe so.

16 Q. Okay. And so the house and the 2003 truck
17 would indicate that this was not an overly
18 sophisticated or wiped-down set of, I wouldn't say
19 crime scene, but that's the Government's term. But
20 neither one of these was wiped down or handled very
21 sophisticatedly; is that correct?

22 A. By whom?

23 Q. By the Gallegos brothers, or Joe
24 specifically.

25 A. I would disagree.

1 Q. Okay. What part of the 2003 Chevy
2 Silverado leads you to believe that it was handled
3 sophisticatedly?

4 A. I would disagree to the 4 Aaron Court
5 portion of your statement.

6 Q. Okay. Why?

7 A. Because we have witness testimony -- not
8 testimony, but a witness statement that he helped
9 clean up, specifically he moved the carpet, he
10 cleaned the air compressor, he got rid of wood.

11 Q. And this is an individual who -- everything
12 he's told you cannot be corroborated; correct?

13 A. To some extent.

14 Q. I mean, we know about the watch and keys
15 that he told you about. There is no other mention of
16 those watch and keys in the reports.

17 A. Correct.

18 Q. He's told you about the carpet. That
19 wasn't mentioned by Karen Cartwright?

20 A. Correct.

21 Q. And then so, as a general -- or a specific
22 statement, Jason Van Veghel, who is a known drug
23 user, convicted felon, hasn't had any of his
24 information corroborated?

25 A. That's not true.

1 Q. What has been corroborated?

2 A. His timeline leading up to when he says the
3 watch and the keys were thrown out of the truck.
4 That matches up with what Karen Cartwright told us.

5 Q. What did she tell you?

6 A. Their timelines match. He says that they
7 picked her up, I think, two days after the homicide.
8 And she confirms the date that they picked her up was
9 two days after the homicide.

10 Q. Well, she bought it out the 13th; right?

11 A. I don't know that. I could be wrong on two
12 days. It could have been one day.

13 Q. Well, but -- and we're discussing --
14 Ms. Cartwright never mentions -- Karen Cartwright
15 never mentions that the keys or watch were --

16 A. Mr. Van Veghel doesn't put Karen Cartwright
17 in that truck when that happens.

18 Q. Right. But at no point in time does he
19 tell her that, "Oh, by the way, I threw keys and a
20 watch out of the car." This is a 2016 statement
21 about keys and the watch thrown out of the car on the
22 date that they picked up Karen Cartwright.

23 A. Yes.

24 Q. And his statement, in and of itself, is not
25 consistent. He says one or two days later, I think,

1 is when stuff happens?

2 A. Yes.

3 MR. BENJAMIN: Pass the witness, Your
4 Honor. Thank you.

5 THE COURT: Thank you, Mr. Benjamin.

6 Mr. Castle, do you have further recross?

7 I'm sorry. Mr. Burke. I'm sorry.

8 MR. BURKE: Thank you, Judge.

9 RECROSS-EXAMINATION

10 BY MR. BURKE:

11 Q. Just one, Agent Stemo. I think Mr.
12 Castellano asked you if there had been any follow-up
13 about the statement by Billy Garcia admitting
14 involvement in the homicides. Did I hear that
15 correctly?

16 A. Yes.

17 Q. And you said there was follow-up?

18 A. Yes.

19 Q. What was that?

20 A. I believe Agent Acee spoke with
21 Mr. Frederico Munoz and wrote a report about it. I
22 don't have that in front of me, so I don't remember.

23 Q. Okay. That's the follow-up?

24 A. Yes.

25 MR. BURKE: All right. Thank you. That's

1 all I have.

2 THE COURT: Thank you, Mr. Burke.

3 All right. Mr. Castellano, do you have any
4 further redirect?

5 MR. CASTELLANO: No, Your Honor.

6 THE COURT: All right. Ms. Stemo, you may
7 step down. Thank you for your testimony.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: Does the Government have
10 further witnesses or evidence it wishes to present in
11 support of its James statements?

12 MR. CASTELLANO: No, Your Honor.

13 THE COURT: All right. How about the
14 defendants? I'd heard some suggestion there might be
15 some witnesses on the James statements. Mr. Castle?

16 MR. CASTLE: No, we have no witnesses on
17 the James statement, but I can speak on behalf of all
18 the defendants, we have witnesses on the other --

19 THE COURT: The motions.

20 MR. CASTLE: -- and other statements.

21 THE COURT: All right. Well, let me tell
22 you what I'm doing, and then you tell me what you
23 want to do. I am working on a chart. I'm trying to
24 figure out a little bit the best way to present or
25 decide these issues. I kind of began to think that

1 the way to maybe do it is to put on this table that
2 the Government has -- put the statement there at the
3 top, just cut and paste the statement. Underneath it
4 put defendant and objections.

5 I created another chart here that has the
6 objecting documents. That's the documents that I got
7 from everybody either today or tomorrow. I'm losing
8 track of time. And then beginning to put some
9 rulings over here. But I'm inclined to think I'm
10 going to put the Government's chart first and then
11 notice under their chart they have defendant
12 objections, then put the objections documents
13 underneath it, so I know who is objecting to it, and
14 then underneath that put some ruling on that.

15 Now, if you want to go ahead and argue
16 these one by one right now, that's fine. If you want
17 to let me take what I've got, what I've heard, give
18 you a chart, like I think I did that in the first
19 trial. I think I did that to get it started. If
20 you'd like me to do that, and if we come back to
21 this, you can come back and say, "Hey, Judge, I think
22 you got it all wrong, and here's why," or, "That's
23 close enough; we can live with it," or something like
24 that.

25 I'm not trying to cut anybody off and I'm

1 not trying to do your job. I'm just simply trying to
2 get it. You're standing, Mr. Castellano. Do you
3 have a thought?

4 MR. CASTELLANO: I do, Your Honor. I would
5 prefer the approach you just mentioned. But what I
6 really wanted to say also is if it makes it easier
7 for the Court, I can send this table to the Court.

8 THE COURT: I asked Mr. Hammond, my law
9 clerk, that, and he's much better with computers than
10 I am. So that was not necessary. So I think we're
11 okay. I think we can cut and paste. I had the same
12 thought, but that would have been my suggestion and
13 probably a few years ago my clerks would have
14 accepted it. But I guess they're beyond me now.
15 Does that sound okay?

16 MR. CASTLE: Yes, I think it does, Your
17 Honor, as long as after we see it, we can raise any
18 specific objection.

19 THE COURT: Then you come back and pick out
20 some of these and take me on.

21 MR. CASTLE: Makes sense.

22 THE COURT: Okay. I hate to stumble ahead
23 without argument, but maybe that's the best way to do
24 it, but it's not precluding argument.

25 MR. CASTELLANO: The only thing I would

1 add, Your Honor, is that I'm not sure I briefed the
2 Alcorta case at the time we filed this. It is a case
3 I brought to the Court's attention before, and that's
4 853 F3d 1123. It the Tenth Circuit 2017. And this
5 is the one that talks about avoiding detection by law
6 enforcement as a means of furthering the conspiracy.
7 So I would just add that.

8 THE COURT: Is it furthering the
9 conspiracy, the eight conspiracies you identified, or
10 does it have to be a separate conspiracy as it does
11 for some of the concealment? You have to have a
12 separate conspiracy for the concealment of the
13 evidence and those things?

14 MR. CASTELLANO: According to the case, if
15 the conspiracy is ongoing, or the conspiracy hasn't
16 been completed in its entirety, then it can also be
17 in furtherance of the conspiracy.

18 THE COURT: Well, I would agree with that.
19 I mean, I think if it's ongoing, and it's during.
20 What concerns me is if it's concluded and then -- one
21 downside to doing it this way is that I'm going to go
22 ahead, since I'm thinking on these statements, and
23 probably begin to give you some rulings on the
24 evidence other than maybe the co-conspirators
25 statement. I didn't preclude anybody from arguing,

1 saying, "I don't think you got it right," or, "I
2 think you're missing something."

3 But probably my ruling section, I'm going
4 to start going ahead. And this is where Mr. Beck I
5 think was anticipating maybe pulling his motion up,
6 that I may begin to start making a stab at whether I
7 think some of this might come in some other ways.
8 And y'all have done that today. I've been listening,
9 and the Government has pulled back some statements
10 saying they don't think it's co-conspirator.

11 So don't panic, but I may go ahead and
12 start putting my thoughts down and telling you what I
13 think it is, and then I'll give you a shot, Mr. Beck,
14 to argue your motion. But I'm going to start going
15 ahead while I'm concentrating on these statements and
16 start giving you rulings on them and then come back
17 to them. All right?

18 If everybody is comfortable with that,
19 we'll try to get that out as soon as possible. And
20 if we begin to crawl through the week and y'all are
21 getting nervous and I'm not getting it to you, I can
22 give you a partial chart, something like that, and
23 give you a chance to argue. So before we get out of
24 here, you tell me what you need and what you want,
25 and I'll try to accommodate as much as possible.

1 All right. If I understand where we're
2 going next, we're going to the bill of particulars.
3 So I don't know how y'all want to argue these but
4 I'll just take them in order.

5 I think the first bill of particular is
6 1320. It's Gutierrez's motion for bill of
7 particulars.

8 Ms. Arellanes, do you want to take the lead
9 on this or take your motion up?

10 Let me give you some thoughts I have on
11 many of these motions for bill of particulars like
12 yours. I think it was filed the middle of October.
13 And it seems like there's a lot of water under the
14 bridge at this point, and now we're even further --
15 more water under the bridge with the James hearing.
16 Tell me what you really need to try to defend Ms.
17 Gutierrez in this case. What is it that you don't
18 think you know that you need to defend her in this
19 trial?

20 MS. ARELLANES: Well, Judge, I've gone
21 through all the discovery pretty well. And again,
22 you know, one of the allegations is that she's an
23 associate or a prospect of the Sindicato. And other
24 than the romantic relationship, although we've tread
25 over this before --

1 THE COURT: You think that's it.

2 MS. ARELLANES: Yeah, that's it.

3 THE COURT: What if Mr. Castellano or
4 whoever is going to argue this gets up and says
5 that's all he's got? Does that kind of do it for
6 you?

7 MS. ARELLANES: That does it, I guess,
8 yeah.

9 And with regard to the second part, one of
10 the elements is that there has to be some
11 consideration of pecuniary value received by Ms.
12 Gutierrez for her efforts. And so again, there is no
13 indication what type of pecuniary value.

14 THE COURT: There is another part there,
15 too, about gaining status and membership and
16 enhancement within the organization. If she -- and I
17 haven't thought this through. I'm certainly not
18 making any ruling. It's not mine to make, anyway.
19 But if she's an associate of SNM, it would seem that
20 if she's planning the hit, and she's telling them the
21 location and those sort of things, that that would
22 enhance her status within the organization. Would
23 that not satisfy that prong? And even if it doesn't
24 satisfy the prong, isn't that some evidence of it?

25 MS. ARELLANES: They have to show, first of

1 all, that she's a member of the organization.

2 THE COURT: Or an associate.

3 MS. ARELLANES: Or an associate. Yes,

4 and --

5 THE COURT: What do you understand that
6 word to mean?

7 MS. ARELLANES: An associate means, or an
8 associate-in-fact, and there has to be some sort of
9 longevity in the organization, more than two months
10 or four months.

11 THE COURT: And where do you get that
12 language?

13 MS. ARELLANES: And I think I've argued it
14 once before. I don't have it with me at the moment.

15 THE COURT: Is this the motion to dismiss?

16 MS. ARELLANES: It is, Your Honor, it is.
17 And so for purposes of entering, maintaining, or
18 gaining position within the organization, there is no
19 indication that she was intending on entering,
20 gaining, or maintaining a position in the
21 organization. So again, she's not a member. I think
22 the Government has conceded that. They may say that
23 she's an associate, but then again, they need to
24 prove that she's an associate. And if she's an
25 associate, what type of benefit would she receive for

1 the predicate violent crime?

2 So that's pretty much what I'm asking for,
3 Judge.

4 THE COURT: Thank you, Ms. Arellanes.

5 MS. ARELLANES: Thank you.

6 THE COURT: Anybody else want to comment on
7 Ms. Gutierrez's motion for bill of particulars?
8 Anybody got any on the defense side?

9 All right. Mr. Castellano, are you going
10 to argue this?

11 MR. CASTELLANO: Yes, Your Honor.

12 THE COURT: We're doing a little bit of
13 deja vu with the motion to dismiss, which I actually
14 got an opinion out on this one. Do you have anything
15 more that she's an associate other than this romantic
16 relationship with Mr. Gallegos?

17 MR. CASTELLANO: Well, of course, the time
18 they were romantic, and then anytime, even through
19 today, where they are still associated and still on
20 good terms with each other. So yes, we would
21 describe her as an associate, not as a member. That
22 would be through the evidence, and of course, the
23 Court has now heard through the James hearing, some
24 of the things that were associated with attacking
25 Jose Gomez for Joe Gallegos. And so we have that --

1 the evidence before the Court even through the James
2 hearing.

3 THE COURT: But you don't have any evidence
4 that she's an associate other than what's been
5 disclosed in discovery or here in open court?

6 MR. CASTELLANO: That's correct, through
7 discovery.

8 THE COURT: So this is it?

9 MR. CASTELLANO: Through discovery, through
10 phone calls, things of that nature, yes.

11 THE COURT: Which prong are you going to
12 try to prove her -- is it the advancement within the
13 organization or enhancement in the organization, or
14 is there some pecuniary benefit that she received?

15 MR. CASTELLANO: We're not aware of any
16 pecuniary benefit, so it would be the other prong.

17 THE COURT: It's not pecuniary benefit.

18 MR. CASTELLANO: Correct.

19 THE COURT: It's the enhancement?

20 MR. CASTELLANO: That's correct.

21 THE COURT: Can an associate enhance their
22 position in an organization that they're not a member
23 of?

24 MR. CASTELLANO: I think they can do things
25 because it's expected of them by virtue of their

1 relationship to the enterprise, and an associate can
2 also aid and abet another member of the enterprise.

3 So, for example, if Jose Gomez is in harm's
4 way criminally, as he was with Jose Gomez as a
5 witness against him, then Shauna Gutierrez could help
6 to either intimidate witnesses or get rid of
7 witnesses to help Joe Gallegos. So --

8 THE COURT: Again, on this prong, this
9 enhancement of status or position prong, you have no
10 other evidence, other than what's already been
11 produced or said here in open court --

12 MR. CASTELLANO: Correct.

13 THE COURT: -- or in the briefing? You
14 don't have any other evidence other than you've
15 already --

16 MR. CASTELLANO: Yes, that's correct, Your
17 Honor. I would say through the discovery and through
18 what we have in court.

19 THE COURT: Anything else on these two
20 aspects that Ms. Arellanes is now focusing on at this
21 hearing? Anything else you can tell her that you're
22 going to do to get a conviction of her client on
23 those two prongs?

24 MR. CASTELLANO: No. Just through witness
25 testimony and any investigation that happens between

1 now and trial, which would, of course, include
2 potentially phone calls and things of that nature,
3 but not much more than that.

4 THE COURT: All right. Anything else, Mr.
5 Castellano?

6 MR. CASTELLANO: No, Your Honor.

7 THE COURT: Anybody else? Any other
8 defendant on this motion?

9 All right. Ms. Arellanes, do you have any
10 rebuttal on it?

11 MS. ARELLANES: No, Your Honor.

12 THE COURT: All right. I'm going to deny
13 the motion for bill of particulars. I think that
14 it's a little bit historical now, because it was
15 filed in October and we've had a lot more discovery
16 and narrowing of the issues. But I do think that at
17 this point probably -- not probably. I think Ms.
18 Gutierrez has a good sense of what the Government is
19 going to do to her at trial and what evidence is
20 going to be and on those particular prongs, so I'm
21 going to deny the motion for a bill of particulars.

22 All right. So we go for defendant Joe
23 Gallegos' motion for a bill of particulars. What is
24 it at this point, Mr. Benjamin, that you really need
25 from the Government to fully defend Mr. Benjamin

1 (sic) at trial.

2 MR. BENJAMIN: Hopefully, Mr. Benjamin
3 won't need defending at trial, Your Honor. But
4 should I stick my foot in my mouth again, I might.
5 Billy is being helpful, Your Honor.

6 The Court said Defendant Gallegos' motion
7 for bill of particulars. I've got three on file.
8 The first one is Document 1143, Your Honor. That
9 should be for Counts 4 and 5. And then I don't know
10 the document number, but there is one for Count 13,
11 and then one for Counts 14 through 16.

12 THE COURT: All right.

13 MR. BENJAMIN: And if I may, Your Honor,
14 the first one that I'd like to deal with is Counts 4
15 and 5. And I quoted in the James response what my
16 concern is with counts --

17 THE COURT: Go ahead and elaborate, because
18 I'm going to have to spend some time probably this
19 evening digesting more the defendants' responses,
20 because as you know, I didn't gather all of them up
21 until today, or yesterday. I can't remember.

22 MR. BENJAMIN: I gave the Court plenty of
23 time, when I filed it at midnight, and then so -- no,
24 Your Honor, I fully understand.

25 THE COURT: It's not your fault. I'm

1 trying to absorb all this.

2 MR. BENJAMIN: This case has been a huge
3 learning curve, Your Honor.

4 Count 4 and 5, as I discussed with the
5 Court on May 10th, is a murder charged in the State
6 of New Mexico. There is nothing that has been
7 produced. There has been nothing -- and actually
8 that's not entirely accurate, Your Honor. There was
9 one document produced in discovery early on that was
10 labeled 1580, and this document said that Joe
11 Gallegos was overheard talking on the wire about an
12 order from Gerald Archuleta, Styx.

13 THE COURT: When you say 1580, that's the
14 Bates number?

15 MR. BENJAMIN: Yes, Your Honor. I
16 apologize.

17 THE COURT: That's fine. We're getting
18 where the document numbers are exceeding the Bates
19 numbers, which is a little unusual for a case.

20 MR. BENJAMIN: Very much so, Your Honor.
21 And that document, this order to kill somebody that
22 was overheard on a wire, was later retracted in
23 February of 2017 by Special Agent Acee, saying that
24 that was a mistake.

25 THE COURT: Now, refresh my memory about

1 that. Because was that in court --

2 MR. BENJAMIN: That was a 302 that the
3 Government --

4 THE COURT: So a 302.

5 MR. BENJAMIN: Yes, Your Honor, the Court
6 produced and we had because we had filed a motion
7 requesting grand jury transcripts to see what
8 information had been presented to the grand jury to
9 secure the indictment on Counts 4 and 5.

10 THE COURT: So Mr. Acee says that was an
11 error?

12 MR. BENJAMIN: Yes, Your Honor. And taking
13 the Government at face value, that presents a larger
14 problem for me to understand this now than it did in
15 May of 2017, because in May of 2017 I assumed that
16 that would be clarified or there would be something
17 else that came forward.

18 THE COURT: All right. Go back and tell me
19 exactly what the Government was saying before they
20 retracted.

21 MR. BENJAMIN: There's two things that they
22 were saying. The first was that Joe Lawrence
23 Gallegos was heard talking about being ordered by
24 Gerald Archuleta, Styx, on the wire to kill Adrian
25 Burns, and that would have been an order from an

1 individual in the SNM to kill somebody for the
2 benefit of the SNM. That statement that I'm
3 paraphrasing was retracted.

4 The other mention is what I've cited in
5 document 1981, which is a --

6 THE COURT: This is another 302.

7 MR. BENJAMIN: Document 1981 is Joe
8 Gallegos' James response that was filed since, the
9 first thing this week, Your Honor.

10 THE COURT: Okay.

11 MR. BENJAMIN: And essentially the second
12 page of that document I believe is where the quote
13 is, is a quote from Ms. Armijo at the motion to
14 produce the James -- motion to produce grand jury
15 transcripts. And her statement, what she related to
16 the Court, is that there would be a cooperator that
17 comes forward that would testify about how Joe
18 Gallegos was disrespected and that he was then killed
19 for that purpose. That would track the indictment.
20 The concern now is --

21 THE COURT: And that he was disrespected by
22 Burns.

23 MR. BENJAMIN: Yes, Your Honor.

24 THE COURT: And that was the link between
25 this murder and the enterprise.

1 MR. BENJAMIN: Yes, Your Honor. And there
2 is a New Mexico State report supplement 36 that is
3 done by a New Mexico State police officer Agent
4 Madrid that documents that this is what she was told
5 and overheard in a meeting with the FBI. And that
6 meeting occurred in February of 2015, Your Honor.

7 THE COURT: Who was in the meeting that was
8 giving them information?

9 MR. BENJAMIN: She's kind of vague. She
10 lists a couple of people. She lists herself and
11 Agent Smith and a couple other agents.

12 THE COURT: Was there a confidential
13 informant that was sitting there giving them
14 information?

15 MR. BENJAMIN: I have read it multiple
16 times, Your Honor. My impression is yes. I can't
17 tell the Court that my impression is correct.

18 THE COURT: And it was a State Police?

19 MR. BENJAMIN: Yes, Your Honor.

20 THE COURT: Is it one of the State Police
21 reports that I read attached to the motion to
22 dismiss?

23 MR. BENJAMIN: No, Your Honor, I don't
24 believe I've attached that to the motion to dismiss.
25 So this statement -- what is in this New Mexico State

1 Police report is what Ms. Armijo, I believe, read and
2 provided us in rebuttal on the grand jury motion.
3 And that is where we were arguing the idea that I put
4 forth that a murder in New Mexico is a murder. And
5 as long as it's not done for a specified VICAR
6 reason, it's not one that needs to be or can be heard
7 in this court. And I can tell the Court now, after
8 having heard the James hearing testimony, seen the
9 James proffer, that there has been no evidence and is
10 no evidence that I'm aware of that links any reason
11 for Joe Gallegos to have killed Adrian Burns and for
12 argument's sake, Your Honor, for a --

13 THE COURT: SNM.

14 MR. BENJAMIN: -- SNM or otherwise VICAR
15 reason. So I'm taken back to the statement was made
16 in February. The ROI -- excuse me, the report that
17 created this original retracted statement was created
18 later that year in 2015, in August. There is another
19 meeting between the State Police and the FBI
20 approximately one week after that, middle of August
21 of 2015, and it sounds like they're proceeding on
22 what is a VICAR-based reason. Adrian Burns was
23 killed because he was disrespected. Agent Madrid
24 then takes that information, absent the cooperator,
25 because she is clear in her report that she's not

1 going to name, identify, or deal with the information
2 that is in the FBI's files, and takes that
3 information to two district attorneys in the state of
4 New Mexico who both essentially decline to prosecute
5 a state-based murder.

6 THE COURT: I know it was taken here in
7 Dona Ana County. Where else did she take it?

8 MR. BENJAMIN: Socorro and Valencia. It
9 was not here in Dona Ana, Your Honor. Essentially,
10 the jurisdiction was based on the murder scene, and
11 essentially, the belief that he was killed at 4 Aaron
12 Court, and he crossed those two lines between where
13 they believed he was killed in Valencia County.

14 THE COURT: Which is the one that Dona Ana
15 County declined?

16 MR. BENJAMIN: The 2001 murder, Your Honor.

17 THE COURT: Okay.

18 MR. BENJAMIN: The 2001, Castillo and Garza
19 murder. So the reason I preface that is because we
20 now have to go back to the idea that this prosecution
21 has to be premised on a cooperator, a cooperator
22 providing the information that Adrian Burns was
23 disrespected and, as the Court a couple minutes
24 before asked Ms. Arellanes, is there a financial gain
25 or is it an advancement in the SNM?

1 And I don't think there is any evidence
2 that I've seen at all that suggests that there is a
3 monetary gain here. The state case, and the Court
4 has heard this briefly --

5 THE COURT: I think we may have even taken
6 that out of the jury instructions in the first trial.
7 We just went to the jury on the advancement or
8 maintaining the status, I think is my memory.

9 MR. BENJAMIN: Okay. And Your Honor, I
10 think that's the only thing that would be argued
11 here. But we have had the cooperator statement
12 hearing. We have the chart. I do not have any
13 evidence to believe that there is anything linking my
14 client, Joe Gallegos -- and I think the Andrew
15 Gallegos team has adopted this and joined this -- but
16 there is nothing linking Mr. Gallegos to a VICAR
17 reason.

18 THE COURT: Well, let's say Mr. Castellano
19 says he doesn't have anything else. He's grabbing
20 notebooks over there, so he's probably going to try
21 to say something else. Let's say he doesn't say
22 anything. What do I do? I mean, a bill of
23 particulars is not going to help you on that score.
24 It's more in the nature of a motion to dismiss, which
25 we know from Ms. Arellanes is difficult in the Tenth

1 Circuit. So what do we do with that, assuming your
2 box is accurate and the Government has got nothing
3 else to put in it?

4 MR. BENJAMIN: The remedy I'm seeking
5 today, Your Honor -- and the Court dealt with this in
6 May when it said that we will readdress this if there
7 is no evidence that appears -- my remedy today is, I
8 am seeking the identification of essentially -- and
9 the facts that support it as a bill of particulars --
10 Joe Lawrence Gallegos was disrespected by So-and-so
11 by telling him that, you know, he had shorted him on
12 his last transaction to the SNM, and that is the type
13 of information.

14 THE COURT: Is that what you think -- I
15 mean, I read all the stuff more with your motion to
16 dismiss, all of the 302s, and I was wondering, where
17 is the SNM connection as I read those. That's the
18 theory of the Government, that Burns shorted them
19 some drugs, and those drugs were going to the SNM
20 Gang. Is that what their theory is?

21 MR. BENJAMIN: Your Honor, that's my
22 problem. I can stand here and tell the Court I have
23 no idea what their theory is. I know they believe,
24 based upon the state investigation, that Mr. Gallegos
25 killed Adrian Burns. I don't believe they have a

1 justification or a reason. I can't tell the Court
2 what that is. I can't -- and unusual for someone in
3 my position, I can't even speculate as to what that
4 is, because there is production in this case through
5 the State of dirty officers. There's the production
6 that's essentially information that's been produced
7 regarding --

8 THE COURT: Well, refresh my memory on
9 that. I read something about that. Refresh my
10 memory as to what the dirty officers were.

11 MR. BENJAMIN: The Los Lunas --

12 THE COURT: Oh, that they had invaded his
13 house.

14 MR. BENJAMIN: No, Your Honor, this is
15 totally different. There's two different allegations
16 I'm aware of. And they go off I think a very side
17 track. But there is a Detective Torres that worked
18 with the Los Lunas Police Department in the drug task
19 force, and there is allegation regarding Adrian
20 Burns' money, and also the --

21 THE COURT: The \$80,000, \$200,000.

22 MR. BENJAMIN: There is \$28,000 that was
23 known to have been seized and returned. And then
24 there's vast other amounts that have been
25 articulated. But there are witnesses in Agent

1 Madrid's report --

2 THE COURT: There was some indication in
3 the materials I read that some of that was, like, hid
4 at his house, and then others that he had a bank
5 account?

6 MR. BENJAMIN: And I think, Your Honor,
7 having done investigations and reviewing things, I
8 think most of those probably boil down to urban
9 myths.

10 THE COURT: They were interesting.

11 MR. BENJAMIN: I think that they are, very
12 much so. But I think it's kind of like: My neighbor
13 is exceedingly wealthy. Why? Because I believe he's
14 wealthy. We have children, and our children have
15 interesting visions of why something happens. And
16 that's what I interpret most of these myths or
17 beliefs about Adrian Burns.

18 But there's all different kinds of things.
19 And I think that this goes back to the State firmly
20 believes that it doesn't have enough to prosecute.
21 And I can't even guess, based upon all the
22 information that's been provided, as to what -- there
23 is no reason, if I take the facts at face value, that
24 Joe Gallegos would have wanted to kill his supplier.
25 Because he was the one that -- I mean, I think we can

1 kind of imagine things, but there is nothing that has
2 been produced, proffered, or in the James statements
3 for the co-conspirator, which is where the statement
4 would have had to have come from, that comes close.

5 And so I'm asking, I guess, first off, Your
6 Honor, in the motion for a bill of particulars, for
7 specific information to support the VICAR element of
8 this offense. When that doesn't appear, Your
9 Honor -- and at this point in time I can say it
10 doesn't appear because I don't believe it will
11 appear. The Court is correct. I then have to come
12 back to this Court with a motion to dismiss and seek
13 that.

14 THE COURT: Well, I know this isn't
15 probably the appropriate time, but since I've been
16 thinking about it, if you had no more evidence, am I
17 going to be able to help you out any more than I can
18 help out Ms. Arellanes and Ms. Gutierrez in the sense
19 that if the Government doesn't consent to a motion to
20 dismiss or -- they're not going to consent to a
21 motion to dismiss -- consent to me considering the
22 facts on a motion to dismiss, aren't we stuck with
23 going to trial, them having laid out their evidence,
24 and either the jury find that they failed to prove
25 this; or after I hear all the evidence, set aside any

1 verdict because there is not sufficient evidence?

2 Aren't you and I stuck with a trial if they don't

3 say, "Yeah, it's in evidence, decide it now"?

4 MR. BENJAMIN: Your Honor, I have a theory
5 under United States v. Abney, and that was a case
6 where the Court found interlocutory appeal was well
7 founded. It was for a Speedy Trial basis, and also
8 essentially it references other cases. I think that
9 if the Government says, "We have no other evidence
10 other than Joe Gallegos was a member of the SNM and
11 we believe, the Government believes, we get to get up
12 to there and say he was involved in the 2001 murder,
13 he was involved in this, and we bring in all the
14 other enterprise evidence and get to say that you get
15 to consider this murder for VICAR purposes, I don't
16 believe that they get to put forth an offense as a
17 VICAR purpose without a good-faith belief that it is
18 tied to a VICAR reason. So I think that what the
19 Court is allowed to do is take at face value what the
20 Government responds to with the motion for the bill
21 of particulars. And then their abdication and, I
22 believe, change in position from May of 2010, that
23 there will be nobody, I believe that allows this
24 Court to essentially dismiss; or, in the alternative,
25 I think the Court can always sever Counts 4 and 5,

1 because if it is not -- the Government doesn't get to
2 try a case that it has no jurisdiction to try. And I
3 don't think that under due process that that ever is
4 an idea.

5 So that's where I'm truly at a loss, Your
6 Honor, because they can't just kind of hold Joe next
7 to the SNM and say that it should have rubbed off on
8 his other acts. That's just like -- the only example
9 that can come to mind is as an Assistant District
10 Attorney, I practiced law for the State of Texas, and
11 I wasn't allowed to have a private practice. But I
12 was going to be able to sue an individual personally
13 for things that arose, but that was me doing things
14 in the practice of law outside of what I was supposed
15 to be doing for the Government. But that's the same
16 thing here. Just because you're associated with the
17 SNM doesn't mean that everything you touch or did for
18 the SNM --

19 THE COURT: I understand that. We kept the
20 Government -- I think we worked hard to keep them
21 honest. The evidence wasn't going to come into this
22 case about every criminal activity of the defendants
23 in the first trial, and we'll do the same here. So I
24 understand that point, that it can't just be a crime.
25 I mean, I read all your State Police reports. I

1 don't know what they call them. I call them 302s. I
2 read all them in the motion to dismiss, and I have
3 the same question. Where is the connection with the
4 SNM? So I understand the point.

5 MR. BENJAMIN: And the Court asks a very
6 pointed question. I don't know. I can guess what
7 they're going to say in Counts 14 through 16,
8 something like that. That's easy, Your Honor.
9 That's a fact question. Respectfully, I don't have
10 the answer to the fact question here. I can't even
11 guess.

12 THE COURT: All right.

13 MS. TORRACO: Your Honor --

14 THE COURT: Does anybody else want to speak
15 on this? Ms. Torraco?

16 MS. TORRACO: Thank you, Your Honor. I
17 just wanted to address --

18 THE COURT: You're interested in this
19 issue?

20 MS. TORRACO: Yes, Your Honor. I am
21 interested in this issue. My client is mostly very
22 interested in this issue. I just wanted to address
23 your proposed remedy because --

24 THE COURT: I haven't proposed one here
25 yet.

1 MS. TORRACO: I'm sorry, and I don't want
2 to correct the Court, but there was a question to Mr.
3 Benjamin about how do you propose that this play out.

4 THE COURT: Well, assuming the box remains
5 empty, I'm trying to think how you remedy the problem
6 short of a trial, which is probably y'all's
7 interests.

8 MS. TORRACO: I would propose we do a
9 hearing based on jurisdiction alone.

10 THE COURT: Where does that get me? You
11 can read the opinion I wrote for Ms. Arellanes and
12 Ms. Gutierrez, when I read those Tenth Circuit cases.
13 Unless the Government is willing to play ball and
14 say, "Yes, Judge, yes, Court, here's the facts,
15 that's all we got, we're all interested from an
16 academic standpoint in what the answer is, go ahead
17 and decide," which they do, they do that from time to
18 time -- not all the time, but from time to time --
19 but if they don't do that, we've got to go have a
20 trial and then sort it out afterwards.

21 MS. TORRACO: I hear what you're saying.
22 But I think that the Court has to establish that it
23 has jurisdiction before it.

24 THE COURT: But let's take a civil case, so
25 we get a little divorced from it. Even in a civil

1 case, in a 12(b)(1) motion, if the merits and the
2 jurisdiction are all tied together, I've got to do
3 the normal things. I can't decide it on a 12(b)(1).
4 I've got to do it under 26, summary judgment, or even
5 a trial before I can determine.

6 It's Aristotelian. You know, you don't
7 know if you have a happy life until you're dead or
8 not. It is a little bit one of those things that
9 sometimes you do not know the answer until you have
10 the trial.

11 Let's to do this: I don't want to cut you
12 short --

13 MS. TORRACO: It's fine.

14 THE COURT: We better pick this up
15 tomorrow. I appreciate y'all's hard work. See you
16 at 8:30 in the morning.

17 MS. TORRACO: Thank you, Your Honor.

18 THE COURT: Thank you.


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2 STATE OF NEW MEXICO

3
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5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
6 Official Court Reporter for the State of New Mexico,
7 do hereby certify that the foregoing pages constitute
8 a true transcript of proceedings had before the said
9 Court, held in the District of New Mexico, in the
10 matter therein stated.

11 In testimony whereof, I have hereunto set my
12 hand on this 20th day of March, 2018.

13
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